Also, petition of Alice C. Trenthart, of Portsmouth, Ohio, favoring woman-suffrage amendment; to the Committee on the Judiciary.

By Mr. DEWALT: Petition of Macungie (Pa.) Grange, protesting against any limitation to the parcel post; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of the State of Pennsylvania, requesting that all products of the farm be placed on an equitable tariff basis; to the Committee on Ways and Means.

Also, petition of Henry Wood and 184 others, of Allentown, Pa., against bills to amend the postal laws; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens and organizations of the State of Pennsylvania, favoring national prohibition; to the Committee on the Judiciary.

Also, petition of members of the Alexander Hamilton Business Club, of Reading, Pa., favoring the Stevens bill, House bill 13305; to the Committee on Interstate and Foreign Commerce.

By Mr. FLYNN: Petition of C. K. Gleason, of New York City, favoring 1-cent letter postage; to the Committee on the Post Office and Post Roads.

By Mr. FULLER: Petition of the United Trades and Labor Council of Streator, Ill., favoring the anti-Taylor system bill, House bill 8665; to the Committee on Labor.

Also, petitions of sundry citizens of Minooka and Grand Ridge, Ill., favoring tax on mail-order houses; to the Committee on Ways and Means.

Also, petition of Illinois League for Nursing Education, favoring House resolution for inspection of dairies; to the Committee on Rules.

By Mr. GALLIVAN: Memorial of Massachusetts Christian Endeavor Union, relative to national prohibition; to the Committee on the Judiciary.

Also, petition of New England Shoe & Leather Association, favoring bill for a permanent tariff commission; to the Committee on Ways and Means.

By Mr. HAYES: Petition of citizens of San Jose, county of Santa Clara, Cal., against compulsory Sunday observance in the District of Columbia; to the Committee on the District of Columbia.

By Mr. HENSLEY: Memorial of St. Francois County Farm Bureau, relative to standardization of agricultural products and general improvement in market conditions; to the Committee on Agriculture.

By Mr. HILL: Petition of Excelsior Lodge, Knights of Pythias, and Leeds Council, No. 16, O. U. A. M., of Stamford, Conn., favoring House bill 6915, the post-office retirement bill; to the Committee on the Post Office and Post Roads.

By Mr. HOPWOOD: Petition of 59 citizens of Somerset, Pa., favoring national prohibition; to the Committee on the Judiciary.

By Mr. HULBERT: Petition of Cotton Goods Export Association of New York, against the Clarke amendment to the Philippine bill; to the Committee on Insular Affairs.

By Mr. LOUD: Petition of Freda Girvin and 99 other residents of Shepherd, Isabella County, Mich., protesting against the passage of House bills 6468 and 491; to the Committee on the Post Office and Post Roads.

By Mr. MAGEE (by request): Petition of Crest Civic Club, of Syracuse, N. Y., against bills to amend the postal laws; to the Committee on the Post Office and Post Roads.

By Mr. MILLER of Pennsylvania: Petition of citizens of Mercer County; 40 voters of Franklin, Venango County; and 34 citizens of Mercer and Crawford Counties, all in the State of Pennsylvania, for a Christian amendment to the Constitution of the United States; to the Committee on the Judiciary.

Also, petition of 150 citizens of Ridgway, Elk County, Pa., against the bill closing barber shops on Sunday in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of 8 citizens of Emlenton, Venango County, Pa., against House bill 13408; to the Committee on the District of Columbia.

By Mr. MORIN: Petitions of Herman Gunto, Harry W. Riemer, E. J. Taylor, W. L. Johnston, William Grabowsky, C. A. Michel, James E. Graham, Max Mansbosch, Emil Weil, Frank Drabner, F. Benkiser, Alfred A. Perrott, John R. Cowan, John Breen, John Belka, Herman A. Adam, William E. Frye, John J. W. Hoffman, J. M. Mueller, R. Gross, Jacob W. Fanston, Harry Karuff, Fred Bower, William C. Faust, Rev. Charles Kreminn, Jacob Die, Rev. John L. Ernst, John Wittmer, Edward Krebs, Theo. W. Janssen, Allegheny County Branch of the German-American National Alliance, Julius Hertz, G. Blatte, David G. Jackey, Enoch J. Guinto, William Janssen, Herman A. Kobe, Herman Janesen, John Schnesoler, Bernard H. Janssen, all of Pittsburgh, Pa., and A. Mayer, of McKeesport, Pa., opposed to United States becoming embroiled in European war; to the Committee on Foreign Affairs.

Also, petitions of Charles M. Chestnut, president Lumberman's Exchange of Philadelphia, Pa., and E. P. Burton Lumber Co., of Philadelphia, Pa., in favor of appropriation of $1,000,000 toward further construction of Norfolk to Beaufort Inlet waterway; to the Committee on Rivers and Harbors.

By Mr. MOSS of West Virginia: Petition of citizens of Reedy, W. Va., favoring national prohibition; to the Committee on the Judiciary.

By Mr. PRATT: Petition of Charles P. Swingle, Arthur Swingle, Rev. H. Kaufmann, Herman Kohnken, sr., Henry Kohnken, Christian Kohnken, Herman Kohnken, jr., Gerhard Danz, Jacob G. New, Melchier Zeh, Rev. J. Flierl, George Zeh, Martin Link, Christian Link, Andrew Link, Adam Sourber Henry Zeh, Louis Bartz, Charles Bartz, Henry Shoullice, Louis Shoullice, John Beechner, William Drum, Philip Tanz, Lorenz Tanz, John Zeh, Edwin New, Theobald Newfang, Charles Rex, Henry Rowe, Fred Rowe, Philip Drum, W. H. Foults, Arthur Drum, Charles Drum, George W. Beechner, Henry Paul, William Wittig, John Strobel, Frank Strobel, Walter Strobel, Edwin Strobel, Christian Strobel, William Strobel, Christian Eichhorn, William Conrad, Christian Miller, Harry Schwingel, Mark Schwingel, John Schwingel, Robert Schwingel, Jacob Pritting, George F. Wagner, John Link, Edward Drum, Henry Sick, William Fleischman, Philip Folts, all of Cohocton, Steuben County, N. Y., favoring peace; to the Committee on Foreign Affairs.

Also, petition of John W. Fedder, W. E. Howell, Hiram Carlton, Irving Bronson, John McGannon, Frank Gottfrand, Jacob Aker, Charles Gregorius, John Fahey, W. J. Woods, Sam Kelce, J. Shaffer, Bert Sebring, John H. Herr, and Edwin C. Gay, of Corning and Painted Post, N. Y., favoring peace; to the Committee on Foreign Affairs.

By Mr. RAINEY: Protest of Mrs. M. A. Cory and others of Kane, Ill., against juvenile-court bill; to the Committee on the District of Columbia.

By Mr. RANDALL: Petition of First Methodist Episcopal Church of Alhambra, Baldwin Park, and Los Angeles, Cal., favoring national prohibition; to the Committee on the Judiciary.

By Mr. ROWE: Petition of Carl Reinschild, of New York City, against bill for numbers on motor boats; to the Committee on the Merchant Marine and Fisheries.

Also, petition of F. C. Barton, favoring the Rainey bill (H. R. 13767); to the Committee on Ways and Means.

Also, petition of New York State Millers' Association, favoring the grain grades bill; to the Committee on Agriculture.

Also, petition of sundry citizens of New York, favoring the Stevens standard-price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Idaho: Memorial of Wendell (Idaho) Grange, No. 82, Patrons of Husbandry, favoring national prohibition; to the Committee on the Judiciary.

By Mr. STAFFORD: Petition of sundry citizens of Milwaukee, Wis., against United States in European war; to the Committee on Foreign Affairs.

By Mr. STINESS: Papers to accompany House bill 15088, granting an increase of pension to Lucy A. Cornell; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Arkansas (by request): Petition of Theo. Muense, F. H. Spilker, and others, of Stuttgart, Ark., against bills to amend the postal laws; to the Committee on the Post Office and Post Roads.

SENATE.

FRIDAY, *April 28, 1916.*

(Legislative day of Thursday, April 27, 1916.)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	du Pont	Kenyon	Owen
Beckham	Gallinger	Kern	Page
Brady	Gronna	La Follette	Pittman
Broussard	Hardwick	Lane	Pomerene
Burleigh	Hitchcock	McCumber	Ransdell
Chamberlain	Hollis	McLean	Saulsbury
Clark, Wyo.	Hughes	Martine, N. J.	Shafroth
Clarke, Ark.	Husting	Myers	Sheppard
Colt	James	Nelson	Sherman
Culberson	Johnson, Me.	Norris	Smith, Ga.
Dillingham	Jones	Overman	Smith, Md.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Smoot	Swanson	Tillman	Williams
Sterling	Thomas	Walsh	Works
Sutherland	Thompson	Warren	

Mr. OVERMAN. I wish to announce that my colleague [Mr. SIMMONS] is unavoidably detained from the Senate.

Mr. MARTINE of New Jersey. I desire to announce that the junior Senator from Missouri [Mr. REED] is detained by illness from the Senate.

The VICE PRESIDENT. Fifty-five Senators have answered to the roll call. There is a quorum present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills and joint resolution:

S. 2290. An act authorizing the health officer of the District of Columbia to issue a permit for the removal of the remains of the late Elsie McCaulley from Glenwood Cemetery, District of Columbia, to Philadelphia, Pa.;

S. 3769. An act to amend section 3 of an act entitled "An act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907; and

S. J. Res. 63. Joint resolution authorizing the erection on the public grounds in the city of Washington, D. C., of a memorial fountain to Alfred Noble.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4876) to provide for an increase in the number of cadets at the United States Military Academy.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

S. 5415. An act to authorize the construction of a bridge across the Fox River at Geneva, Ill.;

H. R. 28. An act to amend an act entitled "An act granting to the city of Durango, in the State of Colorado, certain lands therein described for water reservoirs," approved March 1, 1907;

H. R. 177. An act authorizing the Secretary of the Interior to accept the relinquishment of the State of Wyoming to certain lands heretofore certified to said State, and the State of Wyoming to select other lands in lieu of the lands thus relinquished;

H. R. 384. An act to amend the act of June 23, 1910, entitled "An act providing that entrymen for homesteads within the reclamation projects may assign their entries upon satisfactory proof of residence, improvement, and cultivation for five years, the same as though said entry had been made under the original homestead act";

H. R. 2235. An act for the relief of the widow and heirs at law of Patrick J. Fitzgerald, deceased;

H. R. 4746. An act granting the city of Portland, Oreg., the right to purchase certain lands for public park purposes;

H. R. 4881. An act to reimburse the postmaster at Kegg, Pa., for money and stamps taken by burglars;

H. R. 6442. An act to provide for the exchange of the present Federal building site in Newark, Del.;

H. R. 7239. An act for the relief of Philip H. Heberer; and

H. J. Res. 79. Joint resolution authorizing the Secretary of Labor to permit the South Carolina Naval Militia to use the Charleston immigration station and dock connected therewith.

PETITIONS AND MEMORIALS.

Mr. MYERS. I present a petition from the American Society of Equity, of Montana, praying for legislation relative to the public lands on the Fort Peck Indian Reservation in that State. I ask that the petition be printed in the RECORD together with the signatures and referred to the Committee on Indian Affairs.

There being no objection, the petition was referred to the Committee on Indian Affairs and ordered to be printed in the RECORD as follows:

Whereas the cooperative farmers of Montana, known as the American Society of Equity, realizing that our country now stands in the midst of difficulties, deem it necessary that all farmers should be induced to raise all food possible; and

Whereas we find a vast area of fertile land on the Fort Peck Reservation practically uninhabited, on account of the present law requiring all homesteaders to pay from $2.50 to $7 per acre for said land, one-fifth to be paid at time of entry, the other four-fifths to be made in five annual payments, that said law is keeping actual settlers from this land: Therefore be it

Resolved, That we ask our Senators and Congressmen to introduce a law asking a reduction of one-half of the appraised value of said land and that 10 years' extension of time be granted on all payments after the first one has been made, that being one-fifth down at time of entry.

We also ask that said law be made to cover all payments that have been made, with the exception of commutements, so that the actual settler who is on the land at the present time may receive the same benefits from time of their entry as those who are yet to homestead.

Whereas we consider this one of the first steps toward preparedness, we ask our Senators and Congressmen to act as soon as possible, as the planting time is near at hand, and through this law not only our State but our Government would be greatly benefited, as this is one of our greatest wheat belts.

[SEAL.] CHARLES E. KISSACK, *President*,
EVERT EVANS, *Secretary*,
Portage, Mont.

Mr. CHAMBERLAIN presented memorials of sundry citizens of Oregon, remonstrating against the enactment of legislation for compulsory Sunday observance in the District of Columbia, which were ordered to lie on the table.

He also presented memorials of sundry citizens of Oregon, remonstrating against the enactment of legislation to limit the freedom of the press, which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of sundry citizens of Woodburn, Oreg., praying for the enactment of legislation to found the Government on Christianity, which was referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Klondike, Oreg., remonstrating against the proposed creation of a juvenile court in the District of Columbia, which was referred to the Committee on the Judiciary.

Mr. BURLEIGH presented a memorial of sundry citizens of Richmond, Me., remonstrating against the enactment of legislation for compulsory Sunday observance in the District of Columbia, which was ordered to lie on the table.

Mr. GALLINGER presented the petition of John S. Codman, of Boston, Mass., praying for an investigation into the practice of vivisection, which was referred to the Committee on Agriculture and Forestry.

Mr. HITCHCOCK presented petitions of sundry citizens of Nebraska, praying for prohibition in the District of Columbia, which were ordered to lie on the table.

He also presented a memorial of sundry citizens of Boelus, Nebr., remonstrating against an increase in armaments, which was ordered to lie on the table.

He also presented a petition of the Young People's Society of Christian Endeavor of the Presbyterian Church of Bancroft, Nebr., praying for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

Mr. POINDEXTER presented a petition of Cherry Valley Grange, No. 287, Patrons of Husbandry, of Duvall, Wash., praying for Government ownership of telegraph and telephone systems, which was referred to the Committee on Post Offices and Post Roads.

He also presented the memorial of Mrs. Dora B. Sperry and sundry other citizens of Pasco, Wash., remonstrating against the enactment of legislation for compulsory Sunday observance in the District of Columbia, which was ordered to lie on the table.

He also presented the memorial of H. E. Nelson and sundry other citizens of Bremerton, Wash., remonstrating against the enactment of legislation to limit the freedom of the press, which was referred to the Committee on Post Offices and Post Roads.

Mr. CLAPP. I have received the following telegram, which I send to the desk with the request that it be read into the RECORD, and I make that request.

There being no objection, the telegram was read, as follows:

AUSTIN, MINN., *April 27, 1916.*

MOSES E. CLAPP, *Washington, D. C.:*

The Minnesota State Sunday school convention, representing a majority of the churches of the State familiar with the conditions in the Indian country, petitions the Senate of the United States to stand unchangeable by its wise and just amendment for ending sectarian appropriations by providing sufficient Government schools. This sentiment, expressed in a resolution, was adopted unanimously. Please read this message into the RECORD.

R. W. MCLEOD, *President.*
A. M. LOCKER, *Secretary.*

Mr. SMITH of Maryland presented petitions of Monumental Council, No. 13, Sons and Daughters of Liberty; of Independent Council, No. 22, Sons and Daughters of Liberty; of Rescue Council, No. 1, Sons and Daughters of Liberty; of Frances Willard Council, No. 21, Sons and Daughters of Liberty; of Eastern Star Council, No. 10, Sons and Daughters of Liberty; and of Liberty Council, No. 6, Sons and Daughters of Liberty, all of Baltimore, in the State of Maryland, praying for the enactment of legislation to further restrict immigration, which were ordered to lie on the table.

Mr. PHELAN presented resolutions adopted by the Chamber of Commerce of Los Angeles, Cal., favoring the enactment of legislation for the construction of the San Juan Railway in

Colorado and New Mexico, which were referred to the Committee on Railroads.

He also presented a petition of J. Holland Laidler Camp, No. 5, United Spanish War Veterans, Department of California, of Sacramento, Cal., and a petition of Wheaton Camp, No. 8, United Spanish War Veterans, of San Jose, Cal., praying for the enactment of legislation granting pensions to widows and orphans of veterans of the Spanish-American War, which were ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. WALSH, from the Committee on Indian Affairs, to which was referred the bill (S. 793) modifying and amending the act providing for the disposal of the surplus unallotted lands within the Blackfeet Indian Reservation, Mont., reported it with an amendment and submitted a report (No. 401) thereon.

Mr. SWANSON, from the Committee on Naval Affairs, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 833. A bill to provide that petty officers, noncommissioned officers, and enlisted men of the United States Navy and Marine Corps on the retired list who had creditable Civil War service shall receive the rank or rating and the pay of the next higher enlisted grade (Rept. No. 402);

S. 1807. A bill to reinstate Elwin Carlton Taylor as a passed assistant surgeon in the United States Navy (Rept. No. 403); and

S. 3020. A bill waiving the age limit for admission to the Medical Corps of the United States Navy in the case of John B. Bostick (Rept. No. 404).

Mr. SHEPPARD. From the Committee on Commerce I report back favorably, with amendments, the bill (H. R. 759) to provide for the removal of what is now known as the Aqueduct Bridge, across the Potomac River, and for the building of a bridge in place thereof, and I submit a report (No. 405) thereon.

Mr. SWANSON. I should like to ask unanimous consent that the bridge bill just reported be taken up. The bridge is in a wretched condition. It has been condemned. There was a report of the Army engineer made upon it yesterday which shows that it is a very urgent matter. If there is to be debate upon it and objection to the bill, of course I would not press my request.

Mr. SMOOT. I understood the Senator from New Hampshire [Mr. HOLLIS] was going to ask that the Senate proceed to the consideration of the rural-credits bill this morning, and I understand also that the Senator from New Hampshire is perfectly willing to have an adjournment to-day in order that we may have a morning hour to-morrow. The Senator from Virginia can no doubt call up the bill to-morrow morning.

The VICE PRESIDENT. The bill will be placed on the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WALSH:

A bill (S. 5783) concerning actions on account of death or personal injury within places under the exclusive jurisdiction of the United States; to the Committee on the Judiciary.

By Mr. OVERMAN:

A bill (S. 5784) providing for the adjudication of certain claims by the Court of Claims; to the Committee on Claims.

By Mr. HOLLIS:

A bill (S. 5785) granting an increase of pension to Zemri Stearns (with accompanying papers); to the Committee on Pensions.

By Mr. JONES:

A bill (S. 5786) granting a pension to Catherine E. Ranney;

A bill (S. 5787) granting an increase of pension to Mary C. Hill (with accompanying papers); and

A bill (S. 5788) granting an increase of pension to Thomas Bracken (with accompanying papers); to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 5789) granting an increase of pension to Sue Rains (with accompanying papers); to the Committee on Pensions.

By Mr. PITTMAN:

A bill (S. 5790) to confer additional authority upon the President of the United States in the construction and operation of the Alaskan Railroad, and for other purposes; to the Committee on Territories.

By Mr. POINDEXTER:

A bill (S. 5791) granting an increase of pension to Mary R. Edwards (with accompanying papers); to the Committee on Pensions.

By Mr. MYERS:

A bill (S. 5792) granting a pension to Thomas J. Thompson; to the Committee on Pensions.

By Mr. WILLIAMS:

A bill (S. 5793) granting an increase of pension to Mary A. McElroy (with accompanying papers); and

A bill (S. 5794) granting a pension to Mrs. Lucy K. Kellogg (with accompanying papers); to the Committee on Pensions.

RIVER AND HARBOR APPROPRIATIONS.

Mr. CHAMBERLAIN submitted an amendment intended to be proposed by him to the river and harbor appropriation bill (H. R. 12193), which was referred to the Committee on Commerce and ordered to be printed.

Mr. SAULSBURY submitted an amendment intended to be proposed by him to the river and harbor appropriation bill (H. R. 12193), which was referred to the Committee on Commerce and ordered to be printed.

INCREASE OF CADETS AT MILITARY ACADEMY.

Mr. CHAMBERLAIN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4876) entitled "An act to provide for an increase in the number of cadets at the United States Military Academy," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, 4, and 6, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "twenty of whom shall be selected from among the honor graduates of educational institutions having officers of the Regular Army detailed as professors of military science and tactics under existing law or any law hereafter enacted for the detail of officers of the Regular Army to such institutions, and which institutions are designated as 'honor schools' upon the determination of their relative standing at the last preceding annual inspection regularly made by the War Department"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 5, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "in number as nearly equal as practicable"; and the House agree to the same.

GEO. E. CHAMBERLAIN,
G. M. HITCHCOCK,
H. A. DU PONT,
Managers on the part of the Senate.

JAMES HAY,
S. H. DENT, Jr.,
JULIUS KAHN,
Managers on the part of the House.

The report was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Sharkey, one of his secretaries, announced that the President had approved and signed the following acts and joint resolution:

On April 26, 1916:

S. 3560. An act to validate a certain title whereon the purchase money has been paid on a private sale by order of the United States district court for the middle district of Pennsylvania, at No. 83, June term, 1910, sitting in bankruptcy.

On April 27, 1916:

S. 683. An act prohibiting the use of the name of any Member of either House of Congress or of any officer of the Government by any person, firm, or corporation practicing before any department or office of the Government;

S. 1294. An act to amend section 81 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; and

S. 4480. An act providing for the establishment of two additional terms of the district court for the eastern district of North Carolina at Raleigh, N. C.

On April 28, 1916:

S. J. Res. 98. Joint resolution to print as a public document the final report and testimony submitted to Congress by the United States Commission on Industrial Relations.

RURAL CREDITS.

Mr. HOLLIS. I ask that the rural credits bill be laid before the Senate and proceeded with.

The VICE PRESIDENT. The Chair lays Senate bill 2986 before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2986) to provide capital for agricultural development, to create a standard form of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to provide for the investment of postal savings deposits, to create Government depositaries and financial agents for the United States, and for other purposes.

Mr. HOLLIS. Mr. President, I urge the attention of the Senator from Utah [Mr. SUTHERLAND] to a matter that we were discussing when the bill was last laid aside, on page 32, the provision that "no such loan shall be made to any person who is not at the time, or who does not in his application promise shortly to become, engaged in the cultivation of the farm mortgaged." I assure the Senator I will take that up again and try to reach some solution. The only improvement I can suggest is that the provision be amended so as to read as follows:

No such loan shall be made to any person who is not at the time, or who does not in his application state his intention to become within six months, engaged in the cultivation of the farm mortgaged.

That would be a statement of a fact subject to proof whether he did have such an intention or not. If he did not have such an intention and there were proof of it, such as would convince a jury, he could be prosecuted for having made a false statement in his application. Then I would add to that——

Mr. SMOOT. Will the Senator repeat his proposed amendment?

Mr. HOLLIS. I suggested to make it read:

Or who does not in his application state his intention to become within six months—

And so forth.

The point is this: If a man promises to do something and does not do it, he can not be prosecuted for false pretenses. If he states that he has an intention to do something when he has not, then he has made such a statement that he could be prosecuted for making a false statement of fact in his application.

I think there should be added to that a provision at the top of page 34 that on a failure to comply with the terms of his application the mortgage may be foreclosed. I can not think of any way that would make that any more binding on the borrower than I have suggested, but any of these several ways which have been suggested I think would work out practically about the same.

Mr. SUTHERLAND. Mr. President, that seems to be a rather shadowy basis to base the prosecution upon; that is, to undertake to prosecute a man upon the ground that he had declared an intention to do a thing when, in fact, he had no such intention. It is pretty difficult to get into the human mind to find exactly what a man intended. The Senator is familiar with the rule that no man can be prosecuted for perjury for having promised to do something which he did not do.

Mr. HOLLIS. Yes; but the promise to do something and having a present intention to do it are very different things. An intention is a present state of mind that is susceptible of proof and definite determination. If a man states his present intention to do something and later you prove that he had no such intention, he can be prosecuted for perjury.

Mr. SUTHERLAND. The Senator may be right about that. The line of distinction is sometimes a very narrow one. But I suggest to the Senator that it would be always an exceedingly difficult thing to prove what the intention of the individual was. After all, the intention is something within his own mind. It is not manifested necessarily by any outward circumstance. I think the Senator will be putting something into the bill that would be very difficult at least of enforcement.

It seems to me the thing to do is to leave the matter to the officials who have to deal with it. If the Senator will make provision that the officials who are responsible for making the loan shall be satisfied that the individual intends to do this thing, then he will have afforded some definite test, but if he simply provides that it shall rest in the intention of the individual, that being a matter wholly in his own mind, I think you will have such a shadowy test that it will be very difficult of enforcement.

Mr. McCUMBER. Mr. President——

Mr. HOLLIS. If the Senator will pardon me, as I said at the outset I think any one of these ways will work out practically, because the land bank will have to be satisfied it is so before it makes the loan. It must exercise its judgment as to whether to make the loan or not. I am quite sure it will be satisfactory in any one of the three ways suggested; but, as I said, it is immaterial to me. I yield now to the Senator from North Dakota.

Mr. McCUMBER. I wish to ask the Senator if the provision he has just stated is one that refers to ownership, becoming the owner to the land?

Mr. HOLLIS. Yes.

Mr. McCUMBER. I suggest to the Senator that I can not imagine any great difficulty there, because I do not suppose that the money will be advanced until there is a mortgage, and a mortgage can not be given until there is ownership of the land, and the record shall show it.

Mr. HOLLIS. No; this is a promise to cultivate the land mortgaged. I did not understand the Senator.

Mr. McCUMBER. That is the reason why I asked whether it had reference to the title.

Mr. HOLLIS. It is a promise to cultivate. For the purpose of getting this matter definitely stated and leaving it open, so far as I am concerned, to future consideration, if anyone desires to have it changed, I will move, on line 16 of page 32, that the word "promise" be stricken out and that there be inserted in place thereof the words "state his intention."

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. On page 32, line 16, it is proposed to strike out the word "promise" in the committee amendment and in lieu insert the words "state his intention."

The VICE PRESIDENT. The amendment to the amendment will be agreed to, without objection; and, without objection, the amendment as amended will be agreed to.

Mr. HOLLIS. Then, at the top of page 34, at the beginning of line 2, I move to insert "fail to comply with the terms of his application, or." The result of that amendment is that if a man borrows and then does not comply with the terms of his application the mortgage may be foreclosed.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 34, after the word "shall," at the end of line 1, insert the words "fail to comply with the terms of his application, or."

Mr. STERLING. Mr. President——

Mr. HOLLIS. I yield to the Senator from South Dakota.

Mr. STERLING. I merely wish to ask the Senator from New Hampshire in regard to paragraph 9, on page 33, which names the maximum which may be loaned to any one borrower. Should not that paragraph also state the minimum? Was not that the intention? I think previously in the bill a minimum is named, and should not a minimum be named here? I suggest as an amendment after the numerals "$10,000," that the words be inserted "nor shall any loan be less than the sum of $200."

Mr. HOLLIS. I think the distinguished Senator is in error in stating that there is a minimum limit. That is merely at the outset in the forming of loan associations. The Senator will find it on page 22. After the loan association is once formed, there is no reason why a man should not borrow less than $200 if he desires; and I can not see any reason for having any minimum stated.

Mr. STERLING. Mr. President, I had thought that in the matter of a farm loan under this system there ought to be a minimum, and that it would not, as a business proposition, be wise to permit of loans in a less sum than $200; and that there ought to be at least that minimum limit to the amount which he could borrow. If a man must have a less sum than $200, let it be from some other source and in some other manner than by mortgage of his land to a Federal land bank. Such would be my idea in regard to it.

Mr. HOLLIS. I have not previously heard that view urged. It would occur to me that there might be a good many cases where men might want to borrow less than $200, and might properly borrow it.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from New Hampshire [Mr. HOLLIS].

The amendment was agreed to.

The SECRETARY. The pending amendment is on page 33, section 12, after line 16, where the committee propose to insert:

Taxes or assessments not paid when due, and paid by the mortgagee, shall become a part of the mortgage debt and shall bear simple interest at the rate of 6 per cent per annum.

Mr. HOLLIS. Mr. President, I think that in nearly every State if a mortgagee pays the taxes on the land mortgaged, he would be undoubtedly subrogated to the right of the taxing power and be allowed to collect, but in order to have that clear, and thinking that in some States it may be otherwise, the committee have thought it proper to annex this condition. I believe the rate should be 10 per cent per annum. I think in most

States for delinquent taxes there is a rate of at least 10 per cent charged. I ask unanimous consent to change the rate of interest, in line 19, from "6" to "10" per cent before this committee amendment is voted on.

The VICE PRESIDENT. If there be no objection, that amendment to the amendment will be made. The question is on the amendment as amended.

The amendment as amended was agreed to.

The next amendment of the Committee on Banking and Currency was, on page 34, line 2, after the word "condition," to insert "or covenant," and in line 3, after the word "shall," to insert "at the option of the mortgagee," so as to make the clause read:

Twelfth. Every borrower who shall be granted a loan under the provisions of this act shall enter into an agreement, in form and under conditions to be prescribed by the Federal farm-loan board, that if the whole or any portion of his loan shall be expended for purposes other than those specified in his original application, or if the borrower shall be in default in respect to any condition or covenant of the mortgage, the whole of said loan shall, at the option of the mortgagee, become due and payable forthwith: *Provided*, That the borrower may use part of said loan to repay any sum borrowed to pay for his stock in the farm-loan association, and the land bank holding such mortgage may permit said loan to be used for some other purpose specified in this section.

The amendment was agreed to.

The next amendment was, on page 34, line 12, after the word "borrower," to strike out "or of the farm-loan association," so as to make the clause read:

Funds transmitted to farm-loan associations by Federal land banks to be loaned to its members shall be in current funds, or farm-loan bonds, at the option of the borrower.

The amendment was agreed to.

The reading of the bill was resumed and continued to the end of line 22, on page 35, the last clause read being as follows:

(b) Parcels of land mortgaged to it as security.

Mr. STERLING. Mr. President, I should like to call the attention of the Senator from New Hampshire to page 35, line 22, clause (b), that being one of the powers given the Federal land bank. Under (b) the bank will have the power to acquire and dispose of "parcels of land mortgaged to it as security."

I wonder if it is the intention to give the general power to a farm-land bank to buy lands which have been mortgaged to it as security, to purchase them at any time and to dispose of them, or is it meant that it shall acquire those lands simply in the course of the satisfaction of the mortgage debt, which I think is covered by subdivision (c).

Mr. HOLLIS. The provision to which the distinguished Senator calls attention is meant to cover transactions arising in States where the title passed to the mortgagee, where there is a default, in a case where there is a conditional sale. Therefore the mortgagee would have the right under his present title, if he acquired under foreclosure, to take peaceable possession and to hold the land until the mortgagor complied with the conditions of the mortgage. It is merely meant to cover a case of that kind, where the mortgagee would take temporary possession and proceed to foreclose finally if it became necessary to do so.

Mr. STERLING. Mr. President, it seems to me there should be some language limiting it, because the terms are very general, and on the face of the statement it would give power to acquire any lands mortgaged to a land bank as security and to dispose of them.

Mr. HOLLIS. I agree with the Senator in the thought that this matter should be covered, and I am willing to have an amendment added at the end of the line. Perhaps the expression "under default" would cover it, or the words "where default has occurred"; and I ask unanimous consent that the words "where default has occurred" be added, on page 35, at the end of line 22, before the period.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 35, line 22, after the word "security," it is proposed to insert the words "where default has occurred."

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Banking and Currency was, under the subhead "Powers of Federal land banks," in section 13, page 36, line 11, after the word "Eighth," to strike out "To accept time deposits and to pay interest on the same, as provided in section 18 of this act," and insert "To borrow money, to give security therefor, and to pay interest thereon," so as to make the clause read:

Eighth. To borrow money, to give security therefor, and to pay interest thereon.

The amendment was agreed to.

The next amendment was, on page 36, line 21, before the word "Federal," to strike out "on," and insert "of," so as to make the subhead read "Restrictions of Federal land banks."

The amendment was agreed to.

The next amendment was, under the subhead "Restrictions of Federal land banks," in section 14, page 37, line 1, after the word "act," to strike out ", but this restriction shall not apply to prevent the acceptance of time deposits, as provided in section 18 of this act," so as to make the clause read:

First. To accept deposits of current funds payable upon demand except from its own stockholders, or to transact any banking or other business not expressly authorized by the provisions of this act.

The amendment was agreed to.

The next amendment was, on page 37, line 6, after the words "section 17," to strike out ", or for short terms as provided in section 18," so as to make the clause read:

Second. To loan on first mortgage except through national farm loan associations as provided in section 7 of this act, or through agents as provided in section 17.

The amendment was agreed to.

Mr. SHEPPARD. Mr. President, in connection with the discussion of land credit, I wish to direct attention to a phase of the land question which clamors for settlement, a matter distinct from the general subject of rural credits, but frequently confused with it.

A vast and growing number of American farmers are reduced to such conditions that they have no land to offer as security for loans, no means to acquire land which they might offer as such security for loans of balances due on purchase, and hardly enough left after the landlord, the merchant, and the banker are paid from the proceeds of their crops to keep body and soul together until another crop is made. Whatever meager personal goods they hold are mortgaged for tools and food at a rate of interest so enormous as to keep them in poverty. Their wives and children must, as a rule, labor with them in the fields. As a result their children either have no schooling at all, or very little. They are in a state of financial servitude, from which there is little or no hope for escape under present conditions. These restless, discontented multitudes of men, women, and children, who have no place they may call home, whose earnings, toil as they will, are hardly sufficient for the barest necessities, present a problem that becomes more pressing every hour. The percentage of tenant farmers in the United States increased from 25 per cent in 1880 to 37 per cent in 1910, while the percentage of our rural population decreased from 70 per cent in 1880 to 53 per cent in 1910. It is the statement of Mr. Charles W. Holman, secretary of the National Conference on Marketing and Farm Credits, that in the last 10 years in Texas and Oklahoma the ratio of increase of tenant farmers has been double that of land-owning farmers; that in the States of Alabama, Arkansas, Tennessee, Georgia, Louisiana, Texas, Mississippi, South Carolina, North Carolina, Missouri, Kentucky, Indiana, Nebraska, Michigan, Wisconsin, Minnesota, and California there has been an actual increase since 1880 of 994,361 tenants, while home-owning farmers have increased but 606,755; that in the States of Illinois, Iowa, Kansas, New York, Ohio, and Pennsylvania tenant farmers have increased to the extent of 121,167, while the number of home-owning farmers has actually decreased to the extent of 62,915. But what of the country at large? In this connection let me say, Mr. President, that the last census shows that of the 20,000,000 families in the United States, less than 6,000,000 own their homes free from incumbrances, nearly 11,000,000 American families living in rented homes.

In this connection I want also to cite the fact that the Society to Lower Rents and Reduce Taxes on Homes, an organization located in the State of New York, published, on September 2 of last year, a statement showing that 13 families on Manhattan Island owned land of a total value of $205,404,875, or $15,800,000 to a family, the amount owned by these families being one-fifteenth of the value of all the land on the island. The total number of families in that borough was placed at 560,000. The 13 land-owning families are as follows: The Astors, Vanderbilts, Rhinelanders, O. B. Potter properties, J. P. Morgan, E. H. Van Ingen, Wendels, Goelets, Ehret, Gerrys, Charles F. Hoffman estate, William R. H. Martin, and Eugene Hoffman.

An interesting fact brought out in that connection was that the value of the improvements which these 13 great families have placed on the land was only one-fourth of its value, while the value of the improvements placed on the land by owners of small homes in Manhattan was three times the value of said land. It was demonstrated, therefore, that the small home owners were being taxed for the benefit of the 13 great families I have mentioned.

Mr. President, an aristocracy is rapidly developing in this country, built on the concentrated ownership of lands and also on the concentration of other forms of wealth, an aristocracy that riots in unmeasured luxury, an aristocracy for the most part selfish, indifferent, and cruel. It is the statement of Mr. Benjamin C. Marsh, the executive secretary of the Association for an Equitable Federal Income Tax, that less than 5 per cent of the population of the United States own nearly all the value of land and nearly all the acreage.

Commissioner Davies, of the Bureau of Corporations, reported in 1914 that 1,694 timber owners held in fee over one-twentieth of the land area of the United States, from the Canadian to the Mexican border—a total of 105,600,000 acres—and that 16 holders own nearly half of this amount, or about 47,800,000 acres. This is an alarming situation. The United States is becoming a land of the landless.

Sir, we talk of preparedness against war, and no man favors it more earnestly than I do. Let me say to you that the most effective step this country may take to secure permanent preparedness against all foes is to utilize part of its vast credit in anchoring the people to the land. If you would have this Nation invincible, make it a nation of homes. The home problem presents an emergency so tremendous and so pathetic as to justify the employment of a substantial portion of the Government credit in aiding our landless and homeless millions to acquire lands and homes. This has been done with gratifying results in Great Britain, Australia, New Zealand, and other countries. Some of our States are already considering such steps, Oklahoma and Massachusetts having enacted measures with such ends in view.

Mr. OWEN. Mr. President, would it interrupt the Senator to call his attention to the extraordinary efficiency of the German people, due to the very pains taken by the national power there in abolishing poverty by finding employment to occupy the people and teaching them how to make a living?

Mr. SHEPPARD. I think the Senator's suggestion is a very valuable one. Let us have a Federal home-loan law, enabling the Federal Government to make loans or sales at low interest rates and on long time to worthy homeseekers, either directly or in cooperation with States, and perhaps other political divisions.

For many years the Federal Government protected the wages and incomes of the masses by offering them homes on the public domain. This served as a safeguard against the oppression of the laborers of factory and farm. Now that the public land available for homes has been nearly all preempted shall this safeguard perish? The public land is no more the public domain than the public credit—the Government credit, which is the common possession of all the people. Let the priceless bulwark of home ownership on easy terms, such terms as private collections of capital could never offer, be preserved.

The Secretary of Labor in his last annual report makes an epoch-marking suggestion. He says:

> It will not be enough to hunt "manless jobs" for "jobless men." Any efficient public employment service of a national character must go beyond that. Unless it does, "manless jobs" giving out while "jobless men" remain, the causes of involuntary unemployment will continue to express themselves to the great prejudice of the wage workers of the United States, and consequently to the harm of all industrial interests. In my opinion, therefore, the labor-distribution work of this department should extend to some such development of the natural resources of this country as will tend to make opportunities for workers greater than demands for work and to keep them so.
>
> For this purpose further legislation will be necessary. But it need not be either voluminous or revolutionary. Nothing more is required than a judicious utilization of Government lands.
>
> Title to some of the old public domain still remains in the Government. By a recent decision of the Supreme Court, Congress is soon to have the power, and to be under an obligation, to treat with land-grant railroads regarding the terms on which large areas of that domain heretofore granted away may be restored. There are extensive areas of privately owned but unused farming land in most or all of the States, which might be acquired by the General Government for promoting labor opportunities as advantageously as other areas have been acquired or retained by it for the creation of public parks. If Congress were to adopt, with reference to those lands, a policy of utilizing them for promoting opportunities for employment, the benefits of the labor-distribution work of this department, and of State and municipal public employment offices throughout the United States, would be vastly augmented.
>
> For such a policy the homestead laws seem to afford a legislative basis and their history to furnish valuable suggestions. Those laws relieved the industrial congestions of their day by opening the West to workers of pioneering spirit who set up individual homes and created independent farms in waste places. But the day of the individual pioneer is over. From the Atlantic he has moved westward until the Pacific throws him back again into crowded spaces, and new forms of industrial congestion have consequently developed. To the relief of these the old form of homesteading is not adapted, but the homesteading principle persists. The problem is how to adapt that principle to changed circumstances.
>
> One necessary condition is that the General Government shall retain title to the public lands it already holds. Another condition is that from time to time it shall reacquire title to such lands, formerly owned by it but now privately owned, as are held out of use and may be reacquired upon reasonable terms. Still another condition is that the Government, from time to time, shall acquire title to such privately owned lands in different States as may be usefully devoted to the purpose of opening opportunities for employment. All this need not be done at once. A satisfactory beginning may be made with public lands already available for the purpose in question. But it is necessary that the Government shall not lightly divest itself of title to any lands it may set aside for labor opportunities.

Mr. SHAFROTH. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. SAULSBURY in the chair). Does the Senator from Texas yield to the Senator from Colorado?

Mr. SHEPPARD. Certainly.

Mr. SHAFROTH. How can these Western States that have millions and millions of acres of land in governmental ownership ever support a State, county, or school government if that is going to be the policy of the Government?

Mr. SHEPPARD. The policy I speak of will help the Western States. It will mean the more speedy sale of public lands to home owners. It will give these States more home owners, and that is what they want. These home owners will help to support the State.

Mr. SHAFROTH. Yes; but these lands are situated in the States; and if these lands are to be held by the Government and the title is to remain in the Government, there is no power on earth by which they can be the subject of taxation.

Mr. SHEPPARD. The idea is that the public lands available for homes shall not be too hastily disposed of, but that they shall be held only until they can be sold for this purpose under proper safeguards. But the disposition of existing public lands is not essential to the main question. The point I am making to-day is that we must maintain the homestead principle, which protected the masses of the people up to a few decades ago from oppressive conditions in the cities and in the wage-paying industries.

The Secretary of Labor continues:

> Regulation of private tenures created pursuant to this purpose should fit the circumstances of particular cases. It is therefore suggested that private titles to lands set aside for the indicated purpose be so adjusted by the Department of Labor to its work of labor distribution as to prevent inflation of land values. This precaution is of extreme importance. Wherever inflation of land values might enter in, the proposed method of promoting labor distribution would be obstructed.
>
> There is still another essential condition. Equipment for farming and education in farming as well as a place for farming are needed. All three, however, could be met by an appropriate unification of some of the activities of the Departments of the Interior, of Agriculture, and of Labor. Pursuant to such unification Congress might provide a "rotary fund" for lending purposes; that is, a fund to be used over and over again for those purposes and to be maintained by repayments of loans.

Mr. OWEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Oklahoma?

Mr. SHEPPARD. Yes; I yield, Mr. President.

Mr. OWEN. I call the attention of the Senator to the fact that the Government of the United States is now using a rotary fund in furnishing means to various Indians for the purpose of teaching them self-support by agriculture. That fund, as I say, is a revolving fund.

Mr. SHEPPARD. I am very glad to have that statement, Mr. President.

The Secretary of Labor continues:

> Out of this fund Congress could authorize the departments named above to make loans, through the Department of Labor, to settlers placed by this department upon lands set aside for that purpose in accordance with the authorized plan for thus augmenting labor opportunities. Those loans could be safeguarded, without commercial collateral, by resting them upon the best possible basis of industrial credit—ability, opportunity, and character—and by establishing in connection with them a system of community credits adapted to the circumstances.
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> By their educational processes the Departments of the Interior and of Agriculture could make efficient farmers of inexperienced but otherwise competent workers seeking that vocation. By its marketing plans the Department of Agriculture could guard borrowers from the "rotary fund" against commercial misfortune in disposing of their crops. By its labor-distribution functions the Department of Labor could bring the right men to the right places on the soil and settle them there under favorable circumstances. And by their several appropriate functions these three departments, cooperating under appropriate legislation, could multiply demands for labor in rural regions and minimize labor congestion at industrial centers.
>
> It is a reasonable prediction that such a policy would develop in country and city an economically independent and socially progressive population. The results would be analogous in our time to those of the homestead laws at an earlier period.

Mr. President, let these suggestions of the Secretary of Labor be extended to cover the acquisition of farm homes with Government aid for both landless and jobless men. The rural districts are rapidly decreasing in population.

A Federal home-loan and aid law and a short-term rural-credit law will go far toward remedying fundamental economic evils while a permanent land-mortgage system is being developed.

One of the greatest national needs is to turn the trend of population from the cities back to the farm home. It is fundamentally a national need. It is essential to the Nation's liberty and life.

Of course, it is exceedingly questionable whether the power of the Federal Government, under the Constitution as it now reads, covers the use of its funds and its credit for the acquisition of lands and the distribution of those lands on the homestead principle among the people. I therefore submit an amendment to the Constitution along this line, and ask that it be read, and ask unanimous consent to introduce it at this time.

The VICE PRESIDENT. The joint resolution will be read.

The joint resolution (S. J. Res. 127) proposing an amendment to the Constitution of the United States, giving Congress the power to purchase, hold, improve, subdivide, and sell land and to make loans for the purpose of promoting farm-home ownership, was read the first time by its title and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment of the Constitution be, and hereby is, proposed to the States, to become valid as a part of the Constitution when ratified by the legislatures of the several States, as provided by the Constitution:

AMENDMENT —.

The Congress shall have power to purchase land anywhere in the United States, hold, improve, subdivide, and sell the same, and also to make loans for the purpose of encouraging and promoting farm home ownership in the United States: *Provided, however*, That this amendment shall not be deemed to authorize the sale of such land at less than the cost thereof.

Mr. CLARK of Wyoming. Mr. President——

The VICE PRESIDENT. Does the Senator from Texas yield to the Senator from Wyoming?

Mr. SHEPPARD. I yield.

Mr. CLARK of Wyoming. Of course, I do not wish to object to this being read as a part of the Senator's remarks; but I think it is my duty to call attention to the rule in regard to the introduction of other matters while a Senator has the floor and is making a speech.

Mr. SHEPPARD. Do I understand that this amendment can not be introduced by unanimous consent, Mr. President?

The VICE PRESIDENT. It is the duty of the Chair to prevent any person from interrupting a Senator while he is talking by the introduction of a bill, joint resolution, or any other document. Whether the Chair is under the duty of interfering with the Senator from Texas, the Chair is in very grave doubt.

Mr. SHEPPARD. I do not see how a man could interrupt himself in this way.

The VICE PRESIDENT. The Chair is unable to speak for the Senator from Texas.

Mr. CLARK of Wyoming. If the Senator from Texas is an exception to the rule that bills or resolutions shall not be introduced while a Senator is speaking——

Mr. SHEPPARD. Mr. President, I should like to have the matter ruled on anyway.

The VICE PRESIDENT. There is not any objection to the Senator's introduction of a resolution. This suggestion was largely humorous on the part of the Senator from Wyoming. Shall the amendment be referred to the Committee on the Judiciary?

Mr. SHEPPARD. Yes, sir.

Now, Mr. President, if this amendment seems to strike anybody as radical or socialistic, I want to call attention to a similar amendment to the Constitution of the conservative State of Massachusetts, which was adopted in that State last November by a popular vote of 3 to 1; and I ask the Secretary to read it.

The VICE PRESIDENT. Is there any objection? The Chair hears none.

The Secretary read as follows:

CONSTITUTION OF MASSACHUSETTS.

ARTICLE OF AMENDMENT ADOPTED NOVEMBER, 1915.

The general court shall have power to authorize the Commonwealth to take land and to hold, improve, subdivide, build upon, and sell the same, for the purpose of relieving congestion of population and providing homes for citizens: *Provided, however*, That this amendment shall not be deemed to authorize the sale of such land or buildings at less than the cost thereof.

Mr. SHEPPARD. As a matter of fact, this Massachusetts amendment and my amendment are the antithesis of socialism. The object of these amendments is to preserve the institution of private-land ownership, to preserve it for the masses.

Mr. WALSH and Mr. THOMAS addressed the Chair.

Mr. SHEPPARD. I yield to the Senator from Montana.

Mr. WALSH. I desire to inquire of the Senator from Texas if he is able to advise us as to the attitude of the Senators from Massachusetts upon that amendment?

Mr. SHEPPARD. I judge from the speeches that have been made by the Senators from Massachusetts opposing the acquisition by the Government of an armor-plate plant and of a nitrate plant, and opposing the principle of extending governmental activities along these lines, that they may not be in sympathy with the action of the overwhelming majority of the people of Massachusetts in voting to put the State into the business of buying land and selling it to the people for homes.

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. Does the Senator from Texas yield to the Senator from Colorado?

Mr. SHEPPARD. I yield; yes.

Mr. THOMAS. If the Senator will so amend his proposed amendment to the Constitution as to require the Government to sell some of the land it already owns, I will support it with a good deal of enthusiasm.

Mr. SHEPPARD. Well, Mr. President, this idea that I have suggested includes the sale of the land the Government now possesses and creates circumstances under which it may be sold.

I merely wanted, Mr. President, during the discussion of land credits, to bring the attention of the Senate to a question that is going to assume greater and greater importance as the years pass by. The land question is to-day one of the most fundamental and the most important questions before the country. The fact that the land is rapidly passing away from the possession of the people, that its control is being centered in the hands of the few, is one of the most alarming facts of contemporary history. The United States is becoming a country of tenants and boarders. A land without homes is a land without hope, a land without liberty, although it may wear the garb of a republic and boast of treasures beyond the human brain to comprehend.

Mr. POMERENE. Mr. President, may I ask the Senator from Texas what amount of land is allowed for homestead purposes in the State of Texas now?

Mr. SHEPPARD. Does the Senator mean what amount of the public land may be sold to individuals for homesteads, or what amount of land is exempted from debt as a homestead?

Mr. POMERENE. Well, perhaps that expresses my thought more accurately.

Mr. SHEPPARD. The two propositions are different, as the Senator understands.

Mr. POMERENE. They may be, of course, and they may not be.

Mr. SHEPPARD. Two hundred acres are exempted from debt as a rural homestead.

Mr. POMERENE. And what amount is exempted from sale for debt?

Mr. SHEPPARD. Two hundred acres. A section of land—that is, 640 acres, may be bought from the State for a homestead on 40 years' time at a very low rate of interest. Grazing homesteads comprise more than one section.

Mr. HITCHCOCK. Mr. President, I want to say a word of commendation for the pending bill, which I shall call the Hollis bill. It seems to me that the Senator from New Hampshire is entitled to unusual and particular credit for the preparation and perfection of the simple, strong, and comprehensive measure which is now before the Senate.

I do not take the gloomy view presented by the Senator from Texas.

Mr. SHEPPARD. Mr. President, the Senator did not understand me to bring forward my suggestions as criticisms of this particular measure?

Mr. HITCHCOCK. No; I did not.

I come from the West, where agriculture is prosperous, where agriculture is developing, where home owning is the rule. It is true, however, that the farmers in the West are borrowers. They ought to be borrowers. We have not sufficient capital in the West for the proper development of our farms; and the bill now before the Senate provides in a simple way for accomplishing something which has never yet been accomplished in the United States, and that is for bringing the farmer who wants to borrow money for legitimate purposes into close contact, under Government supervision, with the money lenders who have the capital to invest.

Mr. President, capital in this country is abundant, but to the farmer it is comparatively inaccessible. Through the Federal reserve act and through other legislation enacted by Congress capital has been made readily accessible to the merchant, the manufacturer, and the business man of the industrial centers

and of our cities. This bill, in my opinion, will make capital accessible to the farmer on the most favorable terms.

It is true, Mr. President, that the farmer in the past has borrowed money, and I speak of the farmer of the West because I know him better than I know the farmers of other sections. The great difficulty has been, however, that he has been compelled not only at times to pay an excessive rate of interest but practically at all times to pay an excessive commission to the middleman or agent who has procured for him the loan that he needs. Reduced to its simplest statement this bill establishes a new middleman, provides him with capital, regulates his charges and his profits, and in that way gives to the farmers of the country an opportunity to procure from the money lenders their loans not only at the lowest possible rate of interest but at the minimum of cost.

Mr. President, I have heard some opposition to this bill expressed here in the Chamber, though I am glad to say not much, and I attribute the absence of opposition very largely to the fact that the bill has been so admirably drawn and so thoroughly digested that it is very difficult to make legitimate criticism.

We have been told by some objectors that Congress has neither the power nor the duty to establish this farm-loan system, under which the agricultural interests of the country are to be given quick and cheap access to the great monetary resources of the country. I shall leave to the Senator from New Hampshire [Mr. HOLLIS], who has the bill in charge, the defense of the bill upon legal lines. I think he has already indicated that there is sufficient authority to hold that the bill is drawn in such a way as to come within the constitutional powers of Congress.

I shall discuss for a few moments, however, the duty of Congress to provide for the farmers this means of access to the loanable funds of the country. Mr. President, I might assert that duty upon the ground that the farming industry is the greatest industry in the United States; that in it are employed the largest number of American citizens. That would probably be sufficient to establish the duty of Congress to look after their welfare. But the farmer of the country is in a stronger position than that. He has a stronger claim upon the consideration of Congress. The farm produces the greatest necessary of life—one might almost say the only absolute necessary of life—food for the people. We are approaching a time when the production of food must be one of the great cares of government, if that time has not already arrived. We have witnessed in this country a gradual increase in the cost of living, a cost of living which affects peculiarly the laboring men and clerks in our cities and in our great industrial centers engaged in manufacturing, in mining, and in mercantile pursuits. We know that the number of arable acres in the United States is limited. We can increase them slightly from time to time by irrigation, but, practically speaking, all the arable land of the United States for all time is already known, and most of it is in cultivation.

How are we going to provide the food for our increasing millions in the future from year to year and from decade to decade? We can only do it by doing as Germany did. Beginning 45 years ago Germany has raised the productiveness of each acre by every means known to scientific agriculture. In that period Germany has increased the average German farm acre more than 80 per cent. To bring this about it was necessary to supply farmers with cheap and abundant capital to build improvements, buy machinery, and fertilize the land. In this way intensive farming has enormously increased the national wealth and enabled the empire to bear the burden of this war.

We also can greatly increase the productiveness of our acres if we give the farmers the proper help.

So I say, Mr. President, that the people in our cities and in our industrial centers are interested in this system, which will give to the farmers of the United States, North and South and East and West, capital with which to develop and improve their farms, capital with which to make them productive to a much larger degree than they have ever been in the past. Congress therefore, when it provides this system for the farmer, is also providing for the people in our industrial centers a safeguard against an undue increase in the cost of living and an insurance of sufficient food products.

Mr. President, I have referred to this bill as a simple bill, and it appeals to me because it is so simple and so strong. It practically unites into one great mutual organization all the farmers of the United States and gives to each farm mortgage the united strength of the whole system. It not only affords cheap capital to be borrowed by the farmer, but it affords a good investment for the small lender of money in the richer portions of the United States. The man or the woman in New England who now finds difficulty in finding safe investment for a small amount of savings can under this bill buy land-bank bonds. The timid investor of the East will be given an opportunity under this system of buying bonds of the Government-controlled land bank, which will yield not less than 4 per cent and which may yield a larger amount. It is this 4-per-cent money of the great eastern centers of saving and capital which it is proposed through the land bank and through the farmers' associations to lend to the farmers at 5 per cent, thus permitting only 1 per cent commission or middleman's cost where heretofore in the past the average farmer has paid 2½ per cent and sometimes 3 per cent as a commission for securing a loan.

Mr. President, I referred to the simplicity of the system. Ten farmers in a neighborhood desiring immediately or in the future to borrow money upon their farms associate themselves together in a little association called the farmers' association. Each farmer may apply to that association for a mortgage. Each farmer is an inspector of his neighbor's mortgage. To some extent each farmer is a guarantor of his neighbor's loan. This association, then, in the name of these farmers makes application to the land bank of the district for a loan to each. Suppose each farmer desires to borrow $2,000, each farmer pays in 5 per cent in cash to the farmers' association, namely, $100. The association then, with $1,000 in cash, turns it over to the land bank and receives in return certificates of ownership of the stock of the land bank for that amount. It is an investment in the capital stock of the land bank. Thereupon each farmer becomes entitled to receive at the lowest possible rate of interest a loan of $2,000 upon his farm, providing that amount does not exceed one-half of its value. The land bank has secured $1,000. This becomes a part of its working capital. Each $1,000 added to its capital increases its power to issue bonds $20,000, which in this case is the amount that goes to the 10 farmers in long-time loans. The security for each issue of bonds is, first, the capital of the bank; second, the land mortgaged; third, the obligation of the farmers' association; and fourth, notes of the farmers. Every new mortgage increases the cash capital 5 per cent. The bonds will be a safe and attractive investment, and the land banks can issue and sell them as fast as they make farm loans, and put the mortgages in their vaults. The farmers who invest in the capital of the land bank to the extent of 5 per cent of the amount of their mortgage receive a stock certificate which should pay a fair dividend. So they are all bound together in one great mutual system—all borrowing twenty times what they invest in stock.

So, Mr. President, the farm bank, with a minimum capital of $500,000 of cash actually paid in, paid in largely by the Government of the United States to begin with, paid in later also by these farm associations for the farmers, starts its business. It brings the funds from the money centers to the farms where it is loaned. When it has exhausted its capital and exhausted the funds which it has received from the farmers' associations it has the power to issue bonds to cover mortgage loans, dollar for dollar, as they are made. Thus the mortgages pile up within its vaults as new bonds are issued and sold and the cash capital grows 5 per cent of each loan as it is made.

The bank is under constant Government inspection. Its operations are safeguarded not only by its own land examiners, who go out and visit the farms as loans are made, but it is also under the inspection of the officers of the United States. It affords cheap loans to the farmers and to the bond buyers in the centers of capital a safe investment. Thus we will have a constant flow of cheap money into the land bank and a constant flow of money from the land bank out to the farmers' associations as they are formed, and through the farmers' associations to the farmers themselves.

I say, Mr. President, it seems to be a system so simple and so strong that it is remarkable that it has not been undertaken in this country before this time.

Mr. President, in my opinion, one of the best features of this system is the provision permitting long loans. This provision permits a farmer to borrow money and repay it at his convenience. He is only required to pay 1 per cent of the principal each year, although he may pay more. The mortgage may not be paid off under this amorization plan for 36 years. What will be the consequence of this provision? It will be that farms will be bought and sold with the mortgages upon them; that people with limited capital will be able to buy these farms with the long-time mortgages already upon them. People will be able to go out from cities with a comparatively small amount of ready capital and buy farms, being compelled to pay only the amount represented by the equity and take their time in paying the mortgage.

Nor is that all, Mr. President. I believe that a farm under such a long-time mortgage, with the amortization feature, call-

ing for only the interest every year and 1 per cent of the principal, will be a safe investment for a second mortgage, and that men will be found with local capital who will lend moderate amounts on second mortgages. They will feel sure that they can always protect themselves if necessary by taking the farm and keeping up the first-mortgage payments required for interest and for the amortization of the loan. In other words, the second mortgagee will not fear to loan on second mortgage; he will not fear that the first mortgage will fall due and be foreclosed in a year or two if default in principal should unhappily come, but he will feel safe in lending under a second mortgage, because so little principal on the first mortgage falls due each year.

I believe this system will enable the farmers of the country not only to get cheap money, the cheapest money that the market affords, in the manner provided by the bill, but it will enable the farmer also to secure additional or second-mortgage loans if it is necessary to develop his farm to a higher degree of perfection. I believe, Mr. President, that the result of the bill now before the Senate will be to develop agriculture in the United States, and particularly in the West, and I hope also in the South, as it has never been developed before.

Mr. THOMPSON. Mr. President, in connection with the remarks of the junior Senator from Texas [Mr. SHEPPARD], as well as those by the senior Senator from Nebraska [Mr. HITCHCOCK], who has just spoken, it may be of interest to know that in western Kansas we already have a plan by which any able-bodied man with a family can become the owner of a farm from the production of the farm alone.

This plan was inaugurated by one of our western Kansas public-spirited men, Mr. John Plummer, who lives at Johnson, Stanton County, Kans., and who himself owns a large amount of land and is the inventor of a particular kind of a plow which has revolutionized farming in western Kansas, in what was formerly known as a semiarid country—dry land with an elevation of about 3,000 feet. By the use of this plow Mr. Plummer has never had a crop failure in that western country with limited rainfall.

He and those with whom he is associated agree to take any able-bodied man willing to work on a farm of 160 acres, place moderate improvements on it, and to break it up by the use of this plow in order to demonstrate its ability to produce crops, and to secure permanent settlers who will own their farms. They agree with the farmer in the outset to purchase all the crop that he can raise upon his place at the market price, and also agree to sell him the land at the market value from his farm's production, aiding him in setting aside a sufficient sum each year to pay out by the use of reasonable economy in about five years.

By this method a great many families have obtained homes in western Kansas, and it is being gradually extended and developed until that whole country will no doubt be settled up by farmers who own their homes. All that it takes is an able-bodied man, willing to work, with a family and a few hundred dollars to provide for his groceries and clothing until he can produce his living upon the land.

Now, if this can be successfully accomplished in a private way by one charitably inclined with a little means, how much easier might it be accomplished by the Government with unlimited means.

Mr. NORRIS. Mr. President, agriculture is the most important activity of mankind. It always has been, and from the very nature of things always must be. Not only the happiness and prosperity but the very existence of the human race depends, not indirectly but directly, upon the products of the soil. When the farmer's returns are bountiful all the people, regardless of creed or avocation, share in the prosperity and happiness which it brings. When the sun fails to shine and the rains cease to fall, the farmer fails and with him goes all enterprise and activity. Happiness ceases; starvation, misery, and destruction take possession of all things. Civilization must end and human existence must cease when the soil fails to produce. This is not only true of mankind; it is true of government. All governmental activity must cease when the soil fails to bring forth its return. No government can live without agriculture. When there is no product from the soil, gold becomes less valuable than dust and government bonds as worthless as mere "scraps of paper." One of the principal objects of government should be to encourage as much as possible the scientific development and the practical protection of agriculture. All the people are interested in the success of the farmer, not because they think more of the farmer than of any other citizen but because their own happiness and their own prosperity goes up or down according to the success or the failure of the farmer. In legislating for the benefit of agriculture we should always bear this distinction in mind. A sound public, governmental policy, one in which all the people regardless of their avocation are directly interested, is the proper legislation to give the utmost possible encouragement to agriculture. One of the alarming features disclosed by the last Federal census is that the population in our rural communities has been decreasing, while the population in our already overcrowded cities has been increasing.

The last Federal census discloses the remarkable fact that in the great State of Illinois, justly noted for its rich soil and fine agricultural development, there were 50 agricultural counties between the years 1890 and 1910 where the population had actually decreased, while the cities in the same State for the same period show an increase of more than 16 per cent. In addition to this, not only in Illinois but in the entire country, figures show that the proportion of tenant farmers is continually on the increase. In 1880, 25 per cent of the farmers of the country were tenants; in 1890, 30 per cent; in 1900, 35 per cent; and in 1910, 37 per cent of the farmers of the country were tenants. These remarkable conditions ought to excite the consideration and interest of all worthy citizens whether in the country or in the city. We are all equally interested and are all equally affected, regardless of our vocation or location. Unless this tendency is checked it is easy to see that all classes of our citizens will be injured. We ought to legislate, if we can, not only to stop this tendency but to reverse it. It is no answer to say that legislation in this direction is class legislation, because the evil tendencies that I have pointed out apply as much to the man in the city as to the man on the farm.

For several years the high cost of living has been one of the alarming tendencies of the age. If it continues to increase, it will be necessary for humanity to entirely reconstruct many of the economic instrumentalities of government. This increased cost falls lightly upon the rich but bends the back of labor in every activity of human existence. That it falls the most heavily upon the poor is apparent to anyone who gives it but a moment's study. The expense of maintaining existence for one man is about as great as for another, regardless of his station in life. The man who has an abundance or whose income is very large can look with impunity upon the continually increasing cost of living, but the man whose income is moderate and who requires about all of the product of his labor to sustain himself and those dependent upon him can not long endure if the expense of existence continues to increase. The very poor will suffer first, and those in moderate circumstances will come next. It can easily be seen that a readjustment of every economic condition must result unless this tendency is stopped. When we find that the population of the farms in our best agricultural communities is decreasing and that, therefore, the producing capacity of mankind is lessening, while the population of the cities is increasing and that, therefore, the consuming portion of the population is becoming greater, we are confronted with a condition that all sober-minded, well-meaning men ought to honestly try to remedy. Not only does this condition have a direct bearing upon the cost of living, but it likewise has a direct effect upon the social and physical conditions of human society. The overcrowding that is continually going on and continually growing worse in some of our large cities means that we are burdening future generations with human beings who will be defective mentally, physically, and morally. It is in the slums of the overcrowded cities where crime and social disorder are bred. It is there that the army of inebriates, the physically and socially defective human beings are recruited. This means increased taxation. This means greater burdens for the balance of humanity. It means less stability for society. It means a weaker Government, a less patriotic citizenship.

To prevent this flow of humanity from the open country to the crowded city we must make farm life more happy, more desirable, more profitable. Under existing conditions the farmer pays the highest rate of interest of any class of citizens. His security is the foundation of society, of government, the corner stone of existence, and yet when he places it upon the market as security for money he is compelled to pay the highest rate of any class of our citizens. The security that ought to command money at the lowest rate in fact pays the highest. The worst condition that could possibly exist would be to have all our farming done by tenants, a condition where the owners of the land lived in the cities and where the actual work of the farm was done by those who had no title to the soil which they tilled.

The model condition, the one that would bring the maximum amount of prosperity and happiness to all the people, would be to have all the land cultivated by men who actually own it and reside with their families upon it. Anything that we can do to bring about an approach to this condition must result in increased happiness to the people, in strengthening the moral

foundation of society, and increasing the stability of government itself. Patriotism grows where light and sunshine penetrate the home. Crime, disorder, and ignorance thrive best in the dark alleys and slums inhabited by tenants and poorly developed offspring. We ought to make it easy for men who are now tenants in the country to buy the farms which they till and to make it possible for thousands of willing men who are struggling almost against hope in the cities to take their wives into the open country and rear their children in the healthy atmosphere of a real country home owned by themselves. There is nothing that gives more happiness to the parent, more stability to the citizen, and more patriotic pride to the individual than to see his offspring growing into strong and vigorous manhood and womanhood around a hearthstone the title of which is in himself. If we could lower the rate of interest on farm loans, we would make it possible for thousands of tenant farmers and yet thousands of residents in the city to become the owners of country homes. Why should not the instrumentality of government be turned in this direction? What higher and nobler thing can government do for the perpetuation of government and for the happiness of all people than to make it possible for those who desire to live on farms and till the soil to borrow money at such a rate that it will be possible for them to carry out this idea?

Various plans to bring this about have been proposed within the last few years. Some of them, in my judgment, have much merit, and most of them, I think, have been proposed by honest men with the honest intention of improving present conditions. I can most heartily give my support to any plan that would bring about an improvement. But it will be found upon examination, in practically all of the schemes proposed, that the machinery is top-heavy. There are too many middlemen to receive commissions; too much machinery to be oiled; too much overhead expense. All of these must be paid by the man on the farm who borrows the money.

These criticisms, at least to a very great extent, are applicable to the pending bill. I fear that the bill is top-heavy. I doubt its practicability, yet I know how earnestly the committee having it in charge has striven to bring in a practical, workable proposition. Particularly is this true as to the Senator from New Hampshire [Mr. HOLLIS] whose name the bill bears. I criticize it, therefore, not as an enemy but as a friend. If it is passed and becomes a law no man will more earnestly hope for its sucessful operation than I. In addition to its being top-heavy, I doubt very much whether the bonds provided for will float at a rate that will enable the farmer to get very much benefit out of it. To my mind its expensive machinery could be obviated and plenty of money obtained at a low rate of interest if it were entirely and completely a governmental instrumentality. I believe that we are justified, for the reasons that I have already given, and for additional reasons that I shall give later, in utilizing the credit of the Government as an instrumentality to make it possible to obtain money at the very lowest rate of interest. With this in view, I have introduced a bill (S. 3201) providing for the establishment of a bureau of farm loans, which I intend to offer as a substitute for the pending measure.

In proposing a plan of my own to remedy the situation I do so without any criticism, other than that I have already outlined, upon the various other plans that have been proposed by others who have given the subject much thought and consideration. To get a low rate of interest, of which the farmer can have the benefit, we must lessen the machinery as much as possible and surround the security with stability that in the markets of the world will command the lowest possible rate of interest. In the proposed substitute which I shall offer I have provided for the establishment in the Agricultural Department of a bureau of farm loans, which shall, in fact, be a clearing house between the men, women, and children who have money and savings to loan and the man who wants to become a farmer and build up a home for himself and family in the country. It is the function of this bureau to make loans on farm lands located in any of the States of the Union. These loans are to be secured by mortgages, made payable to the bureau, and draw interest at the rate of 4 per cent per annum, payable semiannually. I have provided that loans can be made for $100 or any multiple of $100 up to and including $2,000. At the end of five years one-tenth of the principal becomes due, and thereafter one-tenth becomes due each year until the entire loan is matured. This would make the loan run for 15 years, but the right is given to the mortgagor to pay the entire loan or to make a payment of $100 or any multiple thereof on the principal at the maturity of any semiannual interest payment. It is provided that application for loans can be made, upon blanks furnished by the bureau, to any postmaster, and the postmaster is authorized to receive such application and to administer oaths to applicants or other persons to any affidavits made necessary by the rules and regulations of the bureau. It is made the duty of the postmaster, when requested by the bureau, to appoint the appraisers that are provided for in the proposed law. It is provided that no person shall be entitled to a loan under the act who is not of good moral character and who does not establish to the satisfaction of the bureau that he is honest and bears a good reputation in the neighborhood where he resides. No loan shall be made to any person who is not an actual resident on and engaged in the cultivation of the land offered as security; but where the applicant is endeavoring to secure the money for the purpose of building a house upon the land, or for the purpose of making part payment upon the purchase price of the land, the bureau can waive this stipulation; but it is expressly stated in the proposed law that it is the intention of the act to provide money only for persons who intend to reside on and cultivate the land which they offer as security. No loan shall be made for more than one-half of the value of the land offered as security, and only for one or more of the following purposes:

First. To make payment of part of the purchase money of the land to be mortgaged.

Second. To pay off an indebtedness already existing against said land.

Third. To build a house, barn, or other building or buildings upon said land.

It is also provided that the bureau, under proper rule and regulation, can provide that not to exceed 50 per cent of any loan may be used for the purchase of stock and farm implements. It is made the duty of the postmaster or any other employee or official of the Government, without fee or pay therefor, to make confidential reports to said bureau upon request upon any subject pertaining to any loan and upon the character or standing of any applicant or witness.

It might be advisable to increase the amount that could be loaned in excess of $2,000, although we ought never to go beyond the theory which we ought constantly to bear in mind, that one of the principal objects of the plan is to help tenants to become proprietors, and to help residents in the city to become farmers. We want to increase the farming population. We want to stop the trend toward the city. We ought not use the instrumentality of the Government for the purpose of permitting men to speculate or for the purpose of permitting men of wealth to control large areas of the farming community. We must not go to the extent of providing money through the instrumentality of the Government for men to deal in farms so large that they themselves would necessarily require the assistance of tenant farmers to care for their interests. As long as we carry out these objects we will not be guilty of the charge of class legislation. We will, in other words, be legislating for all and not for a part.

Let us see now how the Government could look after these loans. We have an army of postmasters, revenue collectors, deputy revenue collectors, United States marshals, deputy United States marshals, post-office inspectors, inspectors of the Land Department, and various other officials whose duties carry them to all parts of the country. These officials, like a network, cover the entire United States. There is scarcely a farm in the United States of which the postmaster in the vicinity has not a personal knowledge. The chances are that the postmaster would not only know the individual applying for the loan, but he would likewise be acquainted with the land that was offered for security. The marshals and post-office inspectors in the performance of their duties are continually passing up and down the country, and very often they could without any additional expense, and almost always with but slight additional expense, make a personal inspection of the land offered as security. Not only would they be able to do this when the land is offered for security, but these officials would know in a general way whether the mortgagor was in good faith carrying out the terms of his mortgage. Any dereliction in this respect could be reported at once. It is made the duty of these officials under the proposed law to make confidential reports to said bureau upon request therefor upon anything pertaining to any loan or the character and standing of the mortgagor or any witness. Moreover, if this plan were adopted, there would be no community in the United States but where there would be a great many farms mortgaged to this bureau, and every citizen would have an interest in the success of the plan. He would feel a proprietary interest and this bureau would be in a better position to get direct, positive, and reliable information as to the conditions at all times than any other loaning institution that ever existed or that has ever been proposed in any of the various schemes for rural development. In addition to this, the bill which I have offered makes it the duty of attorneys

in the Department of Justice in all parts of the United States to pass upon abstracts and to foreclose mortgages whenever it becomes necessary. We already have the legal machinery in active operation in every section of the country, and by increasing it somewhat it would be able to look after all of the legal business and litigation that would become necessary. The proposed bill gives to the bureau the right to declare any loan due if the mortgagor has failed or neglected to pay the interest on the mortgage or the taxes on the land, or if he has failed to apply the money in accordance with the statements made in the application, or if he has made any false statements as to any material matter in his application, or if he neglects to properly care for the improvements on the land, or if the land without the consent of the bureau should cease to be farmed and cultivated.

The mortgagor is allowed to pay the interest and the principal to the postmaster and the money is remitted by the postmaster to one of the Federal reserve banks and the business of the bureau is transacted with these banks already in existence and already performing certain governmental functions. With the exception of the officials of the bureau, there would be no necessity for additional employees, except the employment of the necessary clerks and inspectors to do the business of the bureau.

The question now arises: How will this bureau secure the money with which to make these loans? I have provided in the substitute bill which I propose that the bureau shall issue bonds in denominations of $100 or any multiple thereof, which shall bear interest at the rate of 3½ per cent. When the bureau desires to secure money for the purpose of making loans, it gives notice of its intention to issue bonds and invites from the public generally subscription to said bonds. These bonds, together with the interest thereon, and also the notes and mortgages taken by said bureau, are entirely free from all taxation of every kind, national, State, and municipal. They are, both as to principal and interest, the obligation of the Government, the same as other Government bonds. No bonds can be issued except for the purpose of loaning money as before outlined, so that when bonds are issued bearing 3½ per cent interest, mortgages are taken bearing 4 per cent interest. In my judgment, this difference of one-half of 1 per cent would much more than pay all the expenses connected with the bureau, as well as the losses, if any, that were sustained. The bonds are payable in 15 years. Perhaps it would be advisable to provide that the bureau should have the option of paying them off at the time any interest payment became due after five years. This bureau would therefore be issuing bonds on the one hand and with the proceeds making loans on the other. It would be a clearing house where the middleman's profit and where the overhead machinery of loan companies would be almost entirely eliminated. It is possible that after the bureau had been in operation a few years it would be found that these bonds could be sold at par at a less rate than 3½ per cent. If experience demonstated this, then the rate to the farmer is lowered accordingly. The bureau might be described as a great bank dealing in time deposits and loaning on real estate. It would take in deposits on 15 years' time and loan on land for the same length of time. The amount of its business would, of course, be enormous. It would be continually making loans, daily collecting principal and interest, issuing bonds, paying interest on bonds. It would be an outlet for the savings of millions of school children. It might be well to provide for the investment of postal savings funds in them. Trust funds of all kinds would be invested in these bonds. And while the Government, in order to make the bonds float, would be behind them, no man would say that there would ever be any possibility of any loss occurring to the Government as long as the bureau was honestly and fairly conducted. If the Government runs no risk of loss, why should it not lend its credit to that portion of our citizenship whose prosperity means the happiness of all?

Let us now consider for a few moments some of the objections that are urged against such a plan. First, it is said that this bureau would get into politics and become a political organization, loaning money to its political favorites without proper consideration and security. I am frank to admit that if this bureau became partisan and became a political instrumentality that the entire plan would be a failure. Partisanship would be its ruination, as it is the ruination of almost everything that it embraces within the circle of its power. We are continually from day to day in the Federal Government, in State governments, and in municipal governments trying to get away from partisan politics. Its baneful influences is one of the serious objections to our form of government. But it is possible to keep this bureau entirely out of politics. I have provided that the director of the bureau shall be appointed for a term of 10 years by the President and that his appointment must be confirmed by the Senate. It is provided that he can only be removed by the Secretary of Agriculture for cause, and then only upon charges made, and that he must be publicly tried, and that his removal must be approved by the President of the United States. All of the transactions of his office must be public. I make it a criminal offense for any Senator or Member of the House of Representatives or other Government official or member of any political committee to use any influence or attempt to persuade or to use any political influence to induce the bureau to make or refuse to make any loan. The very fact that every act of this bureau would have to be public would be the best protection against the baneful influence of party politics. Every honest citizen would be interested in the carrying out of the work of the bureau in good faith. If the tenure of office of the officials of this bureau were independent of partisan control, and Members of Congress were absolutely prohibited by law from making any recommendations or using any influence to control the action of the bureau, and if every act of the bureau were open to public inspection and public view, I do not believe that party politics would ever succeed in getting its withering influence into the domain of the bureau's action.

Another objection always offered is that this kind of a law would be in the nature of special privilege or class legislation. I have already to a great extent answered this objection at the beginning of my remarks. It is not class legislation and is not open to the charge that we would be enacting laws for the benefit of one class of our citizens only. The direct benefit would come to all classes of citizens. It would take away from the army of consumers and would add to the army of producers. It would increase the efficiency of the producing class. In this we are all directly interested and would all receive benefits. It would improve the quality of our citizenship. It would increase the stability of our Government. It would lessen the army of paupers; decrease the inclination toward crime that poverty and ignorance always breed. It would decrease taxation, because thousands of children growing up in idleness would be transplanted to the healthy atmosphere of enlightened, educated agricultural communities. The fact that the loan is made directly to the farmer does not make it class legislation.

In our Federal reserve act the Government under certain conditions issues money and loans it directly to the bankers, and yet many of the people who are objecting to governmental assistance in the farm-loan business are ardent supporters of the theory that it is proper for the Government to loan its credit to the banks. I mention this instance of Government credit to the banks provided for in the Federal Reserve System without criticism. While the Federal reserve act, in my judgment, has many imperfections and ought to have been amended in some very important respects, yet I believe, as a whole, the law is a good one and that its result will be beneficial. The theory of it is that in times of panic or distress the Government will loan its credit to the banks in order that they may float loans in business matters; and while the banker, of course, gets a benefit, the entire country or the affected community is benefited through this instrumentality of Government in lending its credit to the banker. The principal object of the Federal reserve bank is to prevent panics, and one of the means by which this is sought to be accomplished is that in times of stringency the Government shall loan its credit to the bankers, not because the Government has any more regard for the banker than for other citizens but because the business of the country is transacted through the banks, and if, with the assistance of the Government, the banks can stem the tide, business generally is protected and prosperity retained. So in the farm-loan plan I have proposed the Government lends its great credit to the bonds, so that the farmer can get cheap money, and through his prosperity all of the people may have their happiness increased as well as the cost of living decreased. The instrumentality of Government is exactly the same. It could be said, of course, that if all the people who had loans from the Government refused to pay and if all the people who had the bonds demanded payment the scheme would fail. So it could be said of the Federal Reserve System; if after the Government notes had been turned over to the banks and they in turn had loaned them out to the people everybody refused to pay and all became bankrupt, the Government would fail with the rest. The difference is in favor of governmental support of a farm-loan plan, because the farmer's security is much better than that which the banker offers. Business men fail, stocks of goods burn, railroads become bankrupt, but the land remains intact, and security founded upon it is the best, the surest, and the safest known to man. Moreover, many of those people who are objecting to the Government lending its aid in any farm-loan plan are often found advocating, for instance, a ship subsidy—a direct payment

by the Government to a certain kind of business. Many of them were strong advocates of the exemption of American ships from toll when passing through the Panama Canal. I do not criticize these advocates. While I do not agree with them, I concede their honesty; but yet no man who has given the subject any consideration will deny that exemption from tolls when passing through the Panama Canal, for instance, is another form of subsidy, not as honest, in my judgment, as the direct payment. But the man who advocates subsidy, either by a direct payment or by the exemption from taxation of any kind, goes on the theory that if the Government through taxation pays the subsidy the benefits derived by all the people will more than recompense the outlay. This is, perhaps, in a great many instances true; but if these things can be even advocated from an honest standpoint, and I think they can, how much more logical it would be to sustain the proposition of Government assistance in the plan I have outlined, where there is no intention of the Government ever paying one penny toward the great enterprise; where no man who will give it careful and honest study can, in my judgment, reach any other conclusion than that there never could be a condition arise by which the Government could possibly lose anything.

Another illustration not only where Government credit but the direct use of Government funds is employed for the benefit of all the people through the instrumentality of a class of citizens is the organization under the Federal statute of the Bureau of War Risk Insurance. This bureau was created by an act of Congress September 2, 1914, to write insurance on American ships and cargoes against the risk of war. Private corporations, taking advantage of the European war, increased the cost of this kind of insurance to such a rate as to materially interfere with shipments of American products. Congress took notice of the condition by the passage of the act which brought this bureau into existence, and provided for the Government going into the insurance business. It was not because Congress desired to give direct financial assistance to those who furnished the produce to be shipped or to those who were engaged in the carrying of the merchandise to foreign shores, although such people incidentally did get a direct benefit from the act. The object of the act, the real reason for its passage, was that through the instrumentality of these particular classes all of the people could receive the benefits of the governmental activity. It is worthy of note, also, to consider the results of this governmental insurance. In the first annual report made by the director of this bureau, for the year ending September 2, 1915, he used the following language:

> The operation of the Bureau of War Risk Insurance in the Treasury Department during its first year just closed demonstrates, despite persistent claims to the contrary, that the Government can conduct a private business enterprise economically, efficiently, and profitably.

This report not only shows that great benefits were derived by the country generally in the reduction that governmental interference brought about in insurance rates but that the Government had made a considerable profit out of the operations of the bureau. A recent examination of the records of this bureau discloses that since its organization on September 2, 1914, up to April 19, 1916, this bureau has issued 1,420 policies of insurance, involving risks to the amount of $114,883,056 and that the bureau received as premiums for these risks the sum of $2,557,085.14. It had risks on April 19, 1916, outstanding to the amount of $12,857,661 and that its net losses to that date, all paid, were $696,220.05. The total expenses up to April 19, 1916, were $27,744.51. This leaves a net profit to the Government from the business, above all losses and expenses, to the 19th day of April, 1916, of $1,833,120.58.

Another instance where Government funds under laws passed by Congress have been used for the benefit of the people generally through the instrumentality of the farmer is the operation of the Reclamation Bureau. It is conceded, I think, by all who have given any consideration to the subject that great benefits have resulted from the operations of this bureau, and that still greater benefits will result in the future. No man now questions the wisdom of using Government funds through this instrumentality, and no man doubts but that through such use great benefits have come and great benefits will continue to come to the people generally.

The Government many years ago gave millions of acres of public land to corporations in return for the building of railroads across the western plains. In addition to giving the land to railway companies it also loaned its credit for the raising of many millions of dollars for the construction of such railroads. Subsequent events have perhaps demonstrated that the Government was too generous in its gifts for these purposes, but there can be no doubt but that the object of Congress was to benefit the entire country, and to do this it gave direct subsidies and loaned the credit of the Government to private corporations as an instrumentality to bring about the general benefit, and there is no doubt but what the entire country did receive great benefits from this governmental instrumentality.

Government funds have been used in the purchase and development of the Panama Railway Co. In a similar way Government funds are now being used in the construction of a railroad in Alaska. Many people will receive individual benefits and perhaps some of them make vast fortunes on account of the construction of this railroad, but yet the object of Congress in authorizing the use of Government funds for its construction was to bring about beneficial results to all of the people.

Congress has many times recognized that Government assistance to agriculture is not only proper but necessary for the proper development of our country, and for the improvement of agricultural conditions generally. We are appropriating thousands of dollars annually to send men all over the world for the purpose of getting rare seeds and plants for the improvement of agricultural conditions and for the investigation of improved methods of cultivation and development. The object of it all is to improve the happiness and contentment of all classes of people, although the instrumentality through which this is brought about is the farmer. We recognize by our laws—in fact, every civilized Government in the world recognizes by its laws—that agriculture is the foundation not only of all prosperity and happiness, but of life itself, and that when we improve it in any way we bring beneficial results to every home, whether in the country or in the city, to every class of people, regardless of their business or occupation.

Still another very apt illustration of the use of Government credit for the benefit and improvement of conditions generally, through the instrumentality of a class of citizens, is the establishment of the Government Postal Savings System. In this case the Government borrows money of its citizens and pays interest on the same. It agrees to return this money on demand, and it borrows it without any specific governmental use for it. It limits the amount that it will borrow of any one citizen in order to confine the transactions to a class of citizens. One of the objects of the law is to induce the people of small means to avoid extravagance by economizing their savings, and to bring this about the Government pays interest to such people, not because the Government wants the money but because it desires to foster among the people habits of frugality and economy. Another object of this law is to improve business conditions and increase the circulating medium, by bringing into circulation amounts of money that are otherwise hidden and locked up from business transactions. After the Government has borrowed this money from the people it loans a large portion of it to the banks in the various communities where it obtained the money. It charges these banks a higher rate of interest than it pays to those from whom it borrowed the money, and in this way it has made a profit out of the business.

The postal savings systems have been established by practically every civilized government in the world. Reduced to a short definition, our system can be defined as the borrowing of money by the Government from its citizens and the loaning of the same money to another class of citizens. Through this governmental activity we assist financially those from whom we have borrowed the money. We give to a class direct Government assistance by the payment of interest and pledge to them the credit of the Government for money borrowed. We also give direct assistance to the banks when we loan them the money at a less rate than the banks would have to pay in borrowing money from the citizens generally. In other words, in this use of the instrumentality of Government these two classes of people get a direct and positive benefit not shared in by the people generally. The object of the system, however, is to benefit the entire country, improve the business of the entire country, and to increase the amount of money in circulation in the entire country, and these two classes are the instrumentalities through which this object is attained. It is much more a direct benefit to the postal savings depositors who loan the money and the banks that borrow it than the plan I have proposed for the establishment of the bureau of farm loans is beneficial to the farmers who borrow the money.

It is said also that if the Government provides for the loaning of money through a bureau as I have outlined for the farmer, why should it not provide for the loaning of money to other classes of citizens as well? This objection loses sight of the fact that the object of the entire plan is to benefit all the people and not any class; that the farmer is only an instrumentality by which this benefit can be extended to the people, the same as in the Federal reserve act the banker is the instrumentality through which the Government by the use of its credit prevents panics and financial disaster. Under the Federal reserve act the ordinary citizen can not get the United States notes behind

which the credit of the Government is lodged. If he applies to the Federal Reserve Board he will find that he must go into the banking business before he can get this favor, if you call it such. Not only must he go into the banking business, but he must go into a certain kind of banking business. And so with the farm-loan plan; if the business man or even the millionaire desires to avail himself of the benefits of the law outlined he must buy the farm, comply with the conditions, and go out among the toilers and engage in agriculture—not by proxy, but in his own proper person. It must be borne in mind, however, in the plan outlined, that not only is the benefit to accrue to all the people, but the Government is amply secured against loss. The Government would not be justified in loaning money to the farmers, even though all the people would benefit by it, if the farmer did not give ample security to prevent any loss coming to the Government. The principle upon which such assistance rests involves not only benefit to the people generally, but security to the Government against loss as well.

Objection is also made to the use of Government credit for the benefit of the farmer, on the ground that it is claimed such a plan would impair the Government credit. As a matter of fact, the plan which I have outlined, if the bureau provided for were honestly managed, would bring in a large profit to the Government. The one-half per cent difference between the rate charged to the farmer and the rate paid by the Government on the bond for the money, would much more than pay all the expenses of operation and would build up in a very short time, an enormous surplus. There would be no doubt if this law were put into operation, that after it had been in force several years and a large surplus had been built up that Congress would perhaps change the law and provide for a smaller margin between the rate on the bond for money borrowed and the rate on the mortgage for money loaned. This surplus would be an element of strength rather than a weakness, and could very properly be used in case of any great emergency. If the money obtained by the Government upon the sale of bonds were invested in some enterprise, in some business, or in some product from which there would be no income, then the objection now under consideration would be valid. If the Government invested these funds in battleships, in armament, and in the raising of large armies, where the investment could not under any possible condition bring a financial return to the Government, then the credit of the Government would be impaired in proportion to the amount of the bonds issued, but if these funds were invested in real estate mortgages, carefully supervised and honestly managed on a conservative basis, then the Government would have security upon absolutely the best property in the world, in fact the only property that is, after all, the foundation of all prosperity, of all happiness, and of all wealth. This security would be as stable as the Government itself. In fact, the stability of the Government as well as its very existence depends upon the production of the soil, and a Government will fail just as soon as the land fails to produce. The plan proposed in its operations can be compared to a bank. The most successful bank, the one that stands highest in financial circles, is the bank that has not only the largest deposits but that has invested these deposits in the safest line of investments. If two banks equally honestly managed, having equal capital and having equal deposits, but one having its deposits invested in good securities and the other with its deposits in its vault should desire to borrow money, there is no doubt but that on such a showing, the money loaner would prefer to loan his money to the bank that had its deposits properly invested, although it would be known, as a matter of fact, that if all the depositors of this bank on the same day demanded their money, they would not be able to get it, and the bank would have to fail, while the other bank, with its deposits all in its vault, would be able to pay its depositors on demand dollar for dollar. So it would be with the bureau of farm loans, taking the people's money and issuing certificates of deposit therefor, due in 15 years, and investing this money in the fundamental security of the country, where the interest payments would be continually coming in. Its resources would be absolutely the best known to man. If honestly managed it could not fail. Even though the Government itself should be destroyed the security of this bureau would remain intact. The one thing only that could destroy it would be some act of God that would bring about the annihilation not only of the Government but of the productibility of the soil.

The plan which I have briefly outlined would in my judgment be workable and would add immensely to the prosperity of all our people. There would be no dangers to the Government involved. It would not mean the increasing of money or the expansion of the currency. To the extent of its operation it would interfere with men engaged in the loaning of money upon real estate. It might have some influence upon the savings banks of the country, and in this way there might be instances where there would be personal loss, but if we can devise a plan by which the farmer who wants the money and the individual who has it to loan can be brought into direct contact, and thus the consumer and the producer brought directly together, we ought to do it, even though in the doing of it we take away the profitable occupation of a few who standing between have taken their toll as the money has passed from one to the other.

I ask unanimous consent to have printed as a part of my remarks the Senate bill 3201, to which I referred and which was introduced by me.

The PRESIDING OFFICER (Mr. THOMAS in the chair). If there be no objection, permission is granted.

The bill referred to is as follows:

A bill (S. 3201) providing for the establishment of a bureau of farm loans in the Department of Agriculture.

Be it enacted, etc., That there is hereby established in the Department of Agriculture a bureau to be called the bureau of farm loans. There shall be appointed a director of said bureau, who shall receive a salary of $6,000 per annum, and an assistant director, who shall receive a salary of $4,500 per annum. The assistant director shall perform the duties of the director of said bureau in case of the death, resignation, removal from office, or absence of the director, and he shall also perform such other duties as may be assigned to him by the Secretary of Agriculture, by the director, or by law. There shall also be in said bureau a chief clerk and such other agents, clerks, inspectors, and employees as are provided for in this act or as may hereafter be authorized by law, or as may be authorized by the Secretary of Agriculture. The director and assistant director shall hold their respective offices for a term of 10 years and shall be removed from office during such term only for cause. The Secretary of Agriculture can remove either of said officers for a violation of law or neglect of duty, but only after a public trial upon charges duly made, of which the accused official shall have reasonable notice, and then only upon the approval in writing of the President of the United States. The director and assistant director shall be appointed by the President, by and with the advice and consent of the Senate, and in case there is a vacancy in either of said offices the appointment to fill the same shall be made for the full term.

SEC. 2. That under the rules and regulations made by the director of said bureau and approved by the Secretary of Agriculture, and in accordance with the provisions hereinafter provided, the said bureau shall make loans on farm lands located in any of the States of the Union or in the District of Columbia. Said loans shall be secured by mortgage made payable to said bureau, and shall bear interest at the rate of 4 per cent per annum, payable semiannually. No loan shall be made upon any tract of land less than 10 acres in area. Loans shall be made only for $100 or any multiple of $100 up to and including $2,000. The mortgage securing any such loan shall provide that at the end of five years one-tenth of said loan shall become due, and that thereafter one-tenth of said loan shall become due each year until the entire loan matures. Said mortgage shall also provide that whenever any interest is due, the mortgagor or his grantee shall have the right to pay the entire loan or to make a payment of $100 or any multiple thereof on the principal thereof, and upon such payment being made the interest on the amount so paid shall thereupon cease. Said mortgage shall also provide that both principal and interest shall draw interest at the rate of 6 per cent per annum from maturity.

SEC. 3. That no person shall be entitled to a loan of money from said bureau until he has made application therefor under oath upon blanks to be furnished by said bureau. Such application can be sworn to before any person authorized to administer an oath, and all postmasters and their deputies in the United States are hereby authorized to administer oaths to applicants making application for loans under this act and to administer oaths to such applicants or other persons to any other affidavits made necessary by the rules and regulations of said bureau. Whenever any oath is administered by a postmaster or deputy postmaster no charge shall be made therefor. No person shall be entitled to a loan under this act who is not of good moral character and who does not establish to the satisfaction of said bureau that he is honest and bears a good reputation in the neighborhood where he resides. No loan shall be made to any person who is not an actual resident on and engaged in the cultivation of the land offered as security: *Provided*, That where the applicant for the loan is endeavoring to secure the money for the purpose of building a house upon the land or for the purpose of making part payment upon the purchase price thereof, the bureau can waive this stipulation if convinced that it is the intention of applicant as soon as possible to reside upon the land and to cultivate the same, the intention of this act being to provide money only for persons who intend to reside upon and cultivate the land which they offer as security. No loan shall be made for more than one-half of the value of the land offered as security and only for one or more of the following purposes:

First. To make payment of part of the purchase money of the land to be mortgaged.

Second. To pay off an indebtedness already existing against said land.

Third. To build a house, barn, or other building or buildings upon said land: *Provided*, That said bureau, under proper rule and regulation, can provide that not to exceed 50 per cent of any loan may be used for the purchase of stock and farm implements. Any applicant or other person testifying falsely to any material fact in any application or other affidavit connected with any loan under this act shall, upon conviction thereof, be deemed guilty of perjury and punished accordingly.

SEC. 4. That it shall be the duty of every postmaster, deputy postmaster, or other employee or official of the Government, without fee or pay therefor, to make confidential reports to said bureau upon request therefor, upon anything pertaining to any loan and upon the character or standing of any applicant or witness. Such postmaster, deputy postmaster, or other officer shall also, when requested by said bureau, appoint appraisers to appraise the land offered for security under the regulations of and upon the blanks furnished by said bureau.

SEC. 5. That any person applying for a loan shall furnish to said bureau an abstract of title to the land offered as security and shall pay all the necessary expenses connected with the making of said loan. Such applicant shall furnish conveyance for the appraisers appointed to fix a value upon land offered for the loan, or shall pay for the transportation of said appraisers to and from said land, and if required by said appraisers, he shall pay a fee to each of them, not exceeding two in

all, which fee shall be ascertained in advance and fixed by the official appointing said appraisers. It shall be the duty of said bureau and the officials appointing said appraisers to select efficient, qualified, and unbiased persons, but, at the same time, to regulate any fee that they may charge for such service so as to make the same as small as possible. Said appraisers shall make return upon blanks provided by the bureau and shall swear to the same before some person qualified under this act to administer an oath.

SEC. 6. That it shall be the duty of every United States district attorney or deputy district attorney, upon request from said bureau, to examine the abstract of title to any land offered as security under this act and to make return thereof to the said bureau. It shall likewise be the duty of any district attorney or deputy district attorney, when requested by the bureau, to foreclose any mortgage taken as security for a loan under this act and to prosecute the same to final judgment. All such services so rendered by an attorney connected with the Department of Justice shall be a part of his official duty and shall be rendered without pay, but said bureau shall pay in all cases the actual expenses of any such attorney in connection with such litigation.

SEC. 7. That it shall be the duty of any post-office inspector, United States marshal, deputy United States marshal, or other employee or inspector of any other department, when engaged in official business in the vicinity of any land mortgaged to said bureau, upon request of said bureau, to make a personal inspection of the same and to report thereon to said bureau. Such inspection shall be made without charge, but said bureau shall pay the actual expenses, if any, made necessary thereby. It shall likewise be the duty of any postmaster, deputy postmaster, or other governmental official residing or doing business in the vicinity of any land that has been mortgaged to said bureau, upon request of said bureau, to make a report upon said loan or as to whether the money borrowed upon said land has been expended or is being expended in accordance with the purposes for which the same was loaned, and in making any loan under this act the said bureau can withhold, under such rules and regulations as it may prescribe, any part of the same for the purpose of insuring the application of said loan to the purposes for which the same was made.

SEC. 8. That should the owner of any land mortgaged to said bureau fail or neglect to pay the interest thereon at or before the time when the same is due, or permit the taxes on the land to become delinquent, or neglect or refuse, without the consent of said bureau, to apply the money borrowed in accordance with the statements made in the application for the loan, or if he has made any false statement as to any material matter in said application, or if he neglects to properly care for the improvements on said land, or if he do any other act that materially injuries the value of the security, either by overt act or by neglect and inattention, or should said land, without the consent of the bureau, cease to be farmed and cultivated, then the said bureau shall have the right, at its election and without notice, to declare the entire amount secured by said mortgage due and payable, and may take any steps necessary for the foreclosure of said mortgage and the collection of said loan, and from and after said election so made by the bureau the amount secured by said mortgage shall bear interest at the rate of 6 per cent per annum.

SEC. 9. That in making any payment of interest or payment of the principal, or part payment of the same, upon any loan made under this act, the person making such payment can pay the same to any postmaster designated by said bureau, and the same shall be transmitted by said postmaster either directly to the bureau or to such Federal reserve bank as may be designated by the bureau, and such postmaster shall immediately notify the bureau of such payment and the transmission of the money so paid, and thereupon credit shall be given for the payment of such money as of the date the same was paid to the postmaster. The said bureau shall notify each person to whom a loan has been made as to the post office where payments upon his loan can be made. The bureau may make such designation by general circular or by specific notice in writing, and can designate by such notice a post office within a county or other district to which all payments within such district can be made.

SEC. 10. That the bureau shall deposit all money it receives in the Federal reserve banks provided for in the act of December 23, 1913, and in making disbursements of money it shall do so by check upon such banks. Any Federal reserve bank organized under the said Federal reserve act is hereby authorized and instructed to receive such deposits and to pay checks or drafts drawn by said bureau upon said

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deposits, the same as other accounts authorized to be held by said banks under said act.

SEC 11. That the bureau shall have power to sue and to be sued, to complain and defend in any court of law or equity having jurisdiction of the subject matter in litigation. To protect any loan it may pay the taxes or any other prior lien due and unpaid against the land securing said loan, and in such case the amount paid in liquidation of such taxes or lien shall be added to and become a part of its mortgage on said real estate and from the date of such payment shall bear interest at the rate of 6 per cent per annum. It shall have the right and authority to purchase, at sale under judgments or decrees of court rendered in foreclosure proceedings of any mortgage it owns, the land so mortgaged, but in such case it shall not bid a greater amount for such land at such sale than the amount due in such proceedings, together with costs and expenses expended in relation to said loan. In case the bureau obtains title as set forth in this section to any real estate, it shall have authority to sell the same at such price as may be for the best interests of said bureau in the judgment of the director and to convey title to the purchaser thereof by deed signed and acknowledged by the director. In making such sale it shall be authorized to take a return mortgage from the purchaser for part of the purchase price thereof in accordance with the provisions of this act.

SEC. 12. That in order to secure money for the purpose of making loans as hereinbefore provided the said bureau shall issue bonds which shall be the obligation both as to principal and interest of the United States. Said bonds shall be issued in denominations of $100 or any multiple thereof and shall bear interest at the rate of 3½ per cent per annum, payable semiannually. Said bonds, together with the interest thereon, and also all notes and mortgages taken by said bureau upon farm lands, shall be entirely free from all taxation of every kind, national, State, and municipal. When in need of money for the purpose of making loans as provided in this act, the bureau shall give notice of its intention to issue bonds and invite from the public generally subscriptions to said bonds. If the amount of subscriptions shall exceed the then demand of the bureau, it shall give preference in accepting money for said bonds to those offered in the smallest amounts, the intention being to give as wide circulation and distribution to said bonds throughout the country as is possible. Said bonds shall be issued for the term of 15 years, with the privilege on the part of said bureau of paying the same upon the date of maturity of any interest payment after 10 years. After this act shall have been in active operation for one year said bureau shall have authority to change the rate of interest charged for farm loans thereafter made and to also change the rate of interest upon the bonds herein provided for thereafter issued, it being the object of this act to pay as low a rate of interest upon said bonds as will float said bonds at par and to charge as low a rate of interest upon the farm loans herein provided for as will bring in sufficient revenue to pay said bonds, the interest thereon, the expenses connected with the making of said loans, and any losses, if any, incurred therein.

SEC. 13. That it shall be unlawful for any Senator, Member of the House of Representatives, or any other official of the Government of the United States to use or attempt to use any political or other influence to induce said bureau to make or refuse to make any loan or loans. Any person found guilty of the conduct in this section prohibited shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $2,000.

SEC. 14. That it shall be unlawful for any official of any State or any officer or member of any political committee to use or attempt to use any political or other influence to induce said bureau to make or refuse to make any loan or loans. Any person found guilty of the conduct in this section prohibited shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

SEC. 15. That it shall be the duty of the officials of said bureau to give publicity to any letter or communication from any of the persons named in the above two sections, requesting or urging said bureau to make or to refuse to make and loan and to give to the Department of Justice the names of any of said mentioned persons attempting to influence the action of said bureau in allowing or refusing any application for a loan, together with the evidence connected with said attempt, whether the same be in writing or otherwise.

SEC. 16. That any person who shall make any false representation to said bureau in connection with the making or the investigation of any application for a loan shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000 or be imprisoned for a term not exceeding one year, or both such fine and imprisonment, in the discretion of the court.

Mr. HOLLIS. Mr. President, I feel that the Senate and the country owe a debt of gratitude to the Senator from Texas [Mr. SHEPPARD] and to both Senators from Nebraska for their addresses this morning. They all deal with very vital and important questions that affect the people who live in the United States.

The subject of tenancy of farms is one that has attracted the attention of all economists. It is a very serious evil and it must sometimes be handled in some such way as the Senator from Texas suggests. Both the Senator from Texas and the Senator from Nebraska [Mr. NORRIS] are pioneers in the study of questions of this sort, and what they have to say is entitled to the greatest consideration of the Senate. I feel personally that the country is not yet ready for either of the measures that they suggest. It is for that reason that I have not directed my efforts along those lines. I feel personally that the pending bill is as far as the country will warrant us in proceeding at this time. Unless some one else is prepared to speak I ask that the reading of the bill by committee amendments be continued.

The reading of the bill was resumed.

The next amendment of the Committee on Banking and Currency was, on page 37, line 10, after the words "section 12," to strike out "or section 18," and in the same line, after the word "act," to insert "and those taken as additional security for existing loans," so as to make the clause read:

Third. To accept any mortgages on real estate except first mortgages created subject to all limitations imposed by section 12 of this act and those taken as additional security for existing loans.

The amendment was agreed to.

The next amendment was, on page 37, line 21, after the word "shall," to insert "also," so as to make the clause read:

Fifth. To demand or receive, under any form or pretense, any commission or charge not specifically authorized in this act. This provision shall also apply to joint-stock land banks.

The amendment was agreed to.

The next amendment was, under the subhead "National farm-loan associations: Special provisions," in section 15, page 38, line 11, after the word "expenses," to strike out "shall" and insert "may," so as to make the clause read:

Such member may, at his option, pay the expenses for appraisal, examining title, drawing legal papers, recording and similar services, or he may require such expenses to be advanced by the Federal land bank making the loan, in which case said expenses may be made a part of the face of the loan and paid off in amortization payments. Such addition to the loan shall not be permitted to increase said loan above the 50 per cent limited in section 12.

The amendment was agreed to.

The next amendment was, under the subhead "Unlimited department," in section 16, page 39, line 9, after the word "department," to strike out "or to the savings department," so as to make the clause read:

SEC. 16. That the Federal farm-loan board is authorized and directed to create in each Federal land bank a special department for the issue of farm-loan bonds unlimited, to be known as the unlimited department, and also to set apart from time to time for the purposes of said unlimited department such portion of the capital stock of said bank, not exceeding one-half, as its needs may require. Whenever an unlimited department is created in any land bank there shall also be established a limited department, which shall carry on all business of said bank which is not assigned to the unlimited department.

The amendment was agreed to.

The next amendment was, under the subhead "Agents of Federal land banks," in section 17, on page 40, line 22, after the word "incorporated," to strike out "trust company, mortgage company, or savings institution, chartered by the" and insert "bank, trust company, or mortgage institution chartered by the Federal Government, or by the," so as to make the clause read:

No other agent than a duly incorporated bank, trust company, or mortgage institution, chartered by the Federal Government, or by the State in which it has its principal office, shall be employed under the provisions of this section.

The amendment was agreed to.

The next amendment was, on page 41, line 3, after the word "agents," to strike out "the actual expense of appraising the land offered as security for a loan, examining and certifying the title thereof, and making, executing, and recording the mortgage papers, and in addition may allow said agents," and in line 8, after the word "unpaid," to strike out "capital" and insert "principal," so as to make the clause read:

Federal land banks may pay to such agents not to exceed one-half of 1 per cent per annum upon the unpaid principal of said loan.

Mr. SMOOT. The paragraph as proposed to be amended would read as follows:

Federal land banks may pay to such agents not to exceed one-half of 1 per cent per annum upon the unpaid principal of said loan.

I hardly see why the original language of the bill was not in better form than as it is proposed to amend it. I should like to ask the Senator from New Hampshire if it is to be amended on lines 3, 4, 5, 6, and 7, why the word "capital" would not be better than the word "principal," in line 8.

Mr. HOLLIS. Capital, in connection with money, is usually employed as opposed to dividends meaning the same as capital stock. The principal of a loan is a definite description of what we mean to reach here, and therefore we thought it to be the more apt word.

Mr. SMOOT. Do I understand that it was the object of the provision, as amended, to pay to these agents one-half of 1 per cent per annum upon any loans that they may secure?

Mr. HOLLIS. On any loans that they secure for the land bank, of course. I can explain that to the Senator. The total allowance for all expenses and profits on loans under this system is limited to 1 per cent on the principal. Originally the bill was drawn so that half of that went to the land bank and half to the loan association. Later the bill was drafted so that the land bank handled it all and the loan association got just what was left after the expenses were paid in the form of dividends. When a loan is made through the agency of a bank the 1 per cent belongs entirely to the land bank, and it may allow not to exceed one-half of it to the agent doing the business and indorsing the loan so that it becomes responsible.

Mr. SMOOT. I understand that; but under the reading of the provision as it now stands it seems to me that the Federal land bank would be allowed one-half of 1 per cent upon the principal of the note as long as the note was not paid in full; in other words, if they made a loan of $1,000 for 25 years they would be entitled to one-half of 1 per cent for that full length of time upon that amount if the note had not been reduced, or if in the meantime it had been reduced each year, still they would be allowed one-half of 1 per cent upon whatever amount of the principal of the note was unpaid. Is that the intention of the framers of the bill?

Mr. HOLLIS. The Senator is correct. If the loan was for $2,000 and the amortization payment was so arranged that $100 would be paid on the principal each year, there would be one-half of 1 per cent on $2,000 for the first year, and one-half of 1 per cent on $1,900 for the second year, and so on. It is to cover the expenses of collecting and the risk the bank assumes in indorsing the loan. There are to be payments every year; the bank is to collect them and forward them to the Federal land banks; and for the entire service of indorsing and becoming liable on the loan and collecting and forwarding it they receive not to exceed one-half of 1 per cent a year. If it proves to be lucrative the farm-loan board can direct that it shall be lowered. It is not to exceed one-half of 1 per cent.

Mr. SMOOT. I thought it was rather a high rate to pay the Federal land bank one-half of 1 per cent of all the rate of interest over and above the 4 per cent or 5 per cent, between 4 and 5 per cent, the Federal land bank getting the business and the bank itself receiving the other half doing virtually all the business and furnishing the money and everything else. I thought it was an unfair distribution of the 1 per cent.

Mr. HOLLIS. My own belief is that one-half of 1 per cent to the land bank will result in dividends to the borrowers; I hope so, and I so expect from my investigation; and that the one-half paid the agent will be fully adequate. The farm-loan board may order it to be reduced. If the one-half of 1 per cent which goes to the land bank is too much, it will be returned to the borrower in the form of dividends. So no harm will be done.

Mr. SMOOT. I think it ought to be reduced. Of course, the words "not to exceed" give the power to reduce it, and perhaps there is no particular objection to it, but I would very much rather see the bill read "not to exceed one-third of 1 per cent per annum upon the unpaid principal of the loan."

Mr. HOLLIS. I should like to see the bill so drafted that all the rates would be very much lower, but I agree with the Senator that you always want to provide for enough revenue to run the Government, and this provides a way for the money to go back to those who contribute it in an equitable proportion. I hope we have our percentage high enough so that this will surely pay the bill; and that is why I favor making it as high as it is.

Mr. SMOOT. I will say to the Senator that of course one advantage is that as he perhaps knows it is none too high until the bank gets into full swing and operation; but I do believe that it is too high after the banks are established and the loans are made. If the bank is a success, then, in my opinion, one-half of 1 per cent per annum is too high.

Mr. HOLLIS. I agree with the Senator.

The amendment was agreed to.

The next amendment was, on page 41, line 10, after the word "paid," to strike out "to agents under the provisions of this section" and insert "by borrowers for appraisal, examining title, drawing legal papers, recording, and similar services"; in line 14, after the word "payments," to strike out "as provided in section 15 of this act"; and in line 14, after the word "act," to insert: "Such addition to the loan shall not be permitted to increase said loan above the 50 per cent limited in section 12," so as to make the clause read:

Actual expenses paid by borrowers for appraisal, examining title, drawing legal papers, recording, and similar services may be added to the face of the loan and paid off in amortization payments. Such addition to the loan shall not be permitted to increase said loan above the 50 per cent limited in section 12.

The amendment was agreed to.

Mr. POMERENE. Mr. President, while a little out of order, I call the Senator's attention to the language on page 40, line 12. The language is, "because of some peculiar local conditions." I suggest that the words "some peculiar" be stricken out, and just let it read "because of local conditions."

Mr. HOLLIS. There was a reason for putting in the words "some peculiar" there. It will be easily understood that if a borrower can go to a bank and get all the benefits of this act they will not want to form farm-loan associations. This language is employed to arrest the attention of the farm-loan board and have them understand that it really meant something. Therefore I like those words because they challenged the attention of the Senator from Ohio, and they will challenge the attention of the farm-loan board. They can not do any harm, and they may prove restrictive. I hope so.

Mr. POMERENE. I dare say if the learned Senator in charge of the bill were sitting as a court he would have some difficulty in giving those words a judicial construction.

Mr. SMOOT. I think there ought to be some peculiar condition existing, and if the word "peculiar" were left out it seems to me it would be wide open as to any condition arising that this provision of the bill would apply to. I think it is as moderate a word as could be found, and that it would at least give notice. I think that is all there is in it; it is simply a notice.

Mr. POMERENE. I shall not insist on an amendment, but certainly it is rather peculiar.

Mr. BRADY. Before leaving page 41 I should like to ask the Senator in charge of the bill a little more fully relative to the discussion which took place between himself and the Senator from Utah [Mr. SMOOT] concerning lines 3 to 9, on page 41, and from line 21, on page 41, to line 4, on page 42. It seems to me that it would indicate that the agent negotiating the loan would have to become responsible for the loan.

Mr. HOLLIS. Yes.

Mr. BRADY. And that the only compensation the bank or trust company or mortgage institution would receive for making the loan and guaranteeing it would be the one-half of 1 per cent.

Mr. HOLLIS. Yes; that is true.

Mr. BRADY. Instead of that being too large a rate it seems to me it is rather small, and that that feature of the bill should receive very careful consideration at the hands of the Senate, for it does not seem possible that a responsible banking institution would negotiate a loan of $10,000 and look after it for 36 years for any less than one-half of 1 per cent.

Mr. HOLLIS. The Senator will see it is one-half of 1 per cent of the amount due each year.

Mr. BRADY. I understand that.

Mr. HOLLIS. The Senator will understand, of course, that this does not require the bank which indorses to embark any of its capital. This is in the nature of an acceptance. It merely requires its indorsement. This is a proposition to loan on farm land not to exceed 50 per cent of its value. We want to enlist the interest of the bank so that it will be sure not to allow a loan to be made for more than 50 per cent of the value and so that the loan will surely be paid. We secure that interest of the bank by securing its indorsement, and we limit the payment to one-half of 1 per cent on the amount of the principal due each year. If agents can not be found who will do it for that sum, we shall not be able to do business on that basis, because we can not allow more than 1 per cent any way for expense and profit, and half of that ought to go to the Federal land bank. So if they are not able to do it for that percentage this section will not be operative, but we have not any more to pay them even if we think they ought to have more.

Mr. BRADY. Then, in case the agent made the loan, the agent making the loan would take one-half of 1 per cent, and the other one-half of 1 per cent would go to the Federal land bank?

Mr. HOLLIS. Yes, sir; that is right.

Mr. BRADY. Thus making the full 1 per cent which is to be allowed, which the bank and agent would be permitted to make on the loan.

Mr. HOLLIS. Yes; that is correct.

Mr. BRADY. It seems to me that that is a very equitable provision.

Mr. HOLLIS. The committee felt that it was such.

The next amendment of the Committee on Banking and Currency was, on page 42, after line 9, to strike out:

SAVINGS DEPARTMENT.

SEC. 18. That the Federal farm-loan board is authorized and empowered to permit any Federal land bank to establish a savings department for receiving time deposits on which interest may be paid. The books, funds, earnings, and reserves of said savings department shall be kept separate. The capital of said land bank shall not be available for any debts or obligations of said savings department as long as any farm-loan bonds issued by said bank are outstanding and unsatisfied. Said savings department shall contribute to the general expenses of said bank its proportionate share, based upon the amount of farm-loan bonds and time deposits outstanding in the separate departments of said bank.

Every savings or time deposit shall be subject to not less than 30 days' notice before the whole or any part of the same is paid or withdrawn, but no land bank shall be obliged to avail itself of such notice when payment or withdrawal is requested.

Each Federal land bank shall maintain a reserve of at least 5 per cent of all time or savings deposits received by it, said reserve to be in cash or invested so as to be quickly available, under rules and regulations prescribed by the Federal farm-loan board. The remaining 95 per cent of such deposits may be invested as follows:

(a) In first mortgages on farm lands within the district for a term not exceeding five years, subject to be called on 60 days' notice at any time after one year, said mortgages to be subject to the restrictions imposed and conditions provided under sections 12 and 20 of this act, except as to term and amortization.

(b) In United States Government bonds or farm-loan bonds issued under this act.

(c) In such securities as the Federal farm-loan board may prescribe. Preference shall be given to first mortgages above described.

Interest on time or savings deposits shall in no case exceed the current rate on bonds issued by the land bank receiving such deposits, and any agreement for a higher rate of interest shall be invalid.

Time or savings deposits may be received from any person, firm, or corporation, subject to rules and regulations prescribed by the Federal farm-loan board. Each depositor may receive a deposit book, on which all deposits and withdrawals shall be entered, or the deposit may be evidenced by a certificate which shall specify the rate of interest to be paid and the notice of withdrawal required.

Every national farm-loan association shall by its secretary-treasurer receive and pay out time or savings deposits as agents for the Federal land bank of the district, and said secretary-treasurer shall forthwith forward any deposit so received to said land bank. Farm-loan associations receiving and forwarding, or paying out, deposits as aforesaid, shall receive such compensation therefor as the Federal farm-loan board shall fix.

All net earnings of savings departments shall be carried to surplus account and invested according to rules and regulations prescribed by the Federal farm-loan board.

The amendment was agreed to.

The next amendment was, in division (c), subhead "Joint-stock land banks," on page 44, line 21, to change the number of the section from "19" to "18"; on page 45, line 3, after the word "bank," to strike out "shall" and insert "may"; and in line 4, before the word "than," to strike out "not less" and insert "more," so as to make the clause read:

SEC. 18. That corporations, to be known as joint-stock land banks, for carrying on the business of lending on farm-mortgage security and issuing farm-loan bonds, may be formed by any number of natural persons not less than 10. They shall be organized subject to the requirements and under the conditions set forth in section 4 of this act, so far as the same may be applicable: *Provided*, That the board of directors of every joint-stock land bank may consist of more than five members.

The amendment was agreed to.

The next amendment was, on page 45, line 23, before the word "deposits," to strike out "accept" and insert "receive"; in the same line, after the word "deposits," to strike out "of current funds payable upon demand"; and in line 25, after the word "act," to strike out:

Provided, however, That this restriction shall not apply to prevent the acceptance of time deposits, as provided in section 18 of this act for Federal land banks.

So as to make the clause read:

No joint-stock land bank shall have power to issue or obligate itself for outstanding farm-loan bonds in excess of fifteen times the amount of its capital and surplus, or to receive deposits or to transact any banking or other business not expressly authorized by the provisions of this act.

The amendment was agreed to.

The next amendment was, on page 46, line 17, after the word "section," to strike out "twenty-one" and insert "twenty"; in line 19, after the word "provisions," to insert "of the paragraphs designated first, sixth, eighth, ninth, and twelfth"; in line 22, after the word "made," to strike out "which are not" and insert "in excess of 50 per cent of the appraised value of the mortgaged lands, and all loans shall be"; and on page 47, line 1, after the words "principal office," to insert "or within some State contiguous to such State," so as to make the clause read:

Joint-stock land banks shall not be subject to the provisions of section 13 or section 20 of this act as to interest rates on mortgage loans or farm-loan bonds, nor to the provisions of the paragraphs designated first, sixth, eighth, ninth, and twelfth of section 12 as to restrictions on mortgage loans: *Provided, however*, That no loans shall be made in excess of 50 per cent of the appraised value of the mortgaged lands, and all loans shall be secured by first mortgages on farm land within the State in which such joint-stock land bank has its principal office or within some State contiguous to such State.

The amendment was agreed to.

The next amendment was, on page 47, line 12, after the word "section," to strike out "19" and insert "18," so as to make the clause read:

Each joint-stock land bank organized under this act shall have authority to issue bonds based upon mortgages taken by it in accordance with the terms of this act. Such bonds shall be in form prescribed by the Federal farm-loan board, and it shall be stated in such bonds that such bank is organized under section 18 of this act, is under Federal supervision, and operates under the provisions of this act.

The amendment was agreed to.

The reading of the bill was continued to the end of line 16, page 47, the last clause read being as follows:

Farm-loan bonds issued by joint-stock land banks shall be called joint-stock bonds.

Mr. BRADY. Mr. President, I desire to ask the Senator in charge of the bill if he does not think that the bonds referred to in the text of the bill as "joint-stock bonds" should be called "joint-stock land bonds"? The banks which issue such bonds have been called all the way through the bill "joint-stock land banks."

Mr. HOLLIS. The reason for placing this definition here was merely to describe these bonds for the purposes of this act and to distinguish them from farm-loan bonds, limited or unlimited, issued by the Federal land bank. I have no idea what they will be called in practice, but this is an apt name by which to refer to them in other sections of the act. I merely wanted a short name for such bonds, so that it would not take too many words. I would just as lief call them "class C bonds," or anything else the Senator desires; but the object of designating the bonds as we have done in the bill is what I have stated.

Mr. BRADY. The Senator feels, then, that it would be perfectly easy to distinguish these bonds by calling them "joint-stock bonds" instead of "joint-stock land bonds"?

Mr. HOLLIS. It seems to me so.

Mr. BRADY. If the Senator from New Hampshire feels that that description will answer the purpose, I have no objection.

Mr. HOLLIS. I think it will.

The reading of the bill was resumed.

The next amendment of the Committee on Banking and Currency was, under subhead "Appraisal," on page 47, line 18, to change the number of the section from "20" to "19."

The amendment was agreed to.

The next amendment was, on page 48, line 6, after the words "with the," to strike out "affidavit provided for in section 7 of this act" and insert "application for the loan," so as to make the clause read:

The written report of said loan committee shall be submitted to the Federal land bank, together with the application for the loan, and the directors of said land bank shall examine said written report when they pass upon the loan application which it accompanies, but they shall not be bound by said appraisal.

The amendment was agreed to.

The next amendment was, on page 48, line 13, after the word "application," to strike out "affidavit," so as to make the clause read:

Before any mortgage loan is made by any Federal land bank or joint-stock land bank it shall refer the application and written report of the

loan committee to one or more of the land-bank appraisers appointed under the authority of section 3 of this act, and such appraiser or appraisers shall investigate and make a written report upon the land offered as security for said loan. No such loan shall be made by said land bank unless said written report is favorable.

The amendment was agreed to.

The next amendment was, on page 48, line 23, after the word "section," to strike out "twenty-three" and insert "twenty-two," so as to make the clause read:

Whenever any Federal land bank or joint stock land bank shall desire to issue farm-loan bonds under the provisions of section 22 of this act the Federal farm-loan board shall refer the application of such land bank to one or more of the special appraisers appointed under the authority of section 3 of this act. Such special appraiser or appraisers shall make such examination and appraisal of the mortgages offered as collateral security for such bonds as the Federal farm-loan board shall direct, and shall make a written report to said board. No issue of farm-loan bonds shall be authorized unless the Federal farm-loan board shall approve such issue in writing.

The amendment was agreed to.

The next amendment was, on page 49, line 22, after the word "directors," to strike out "of any farm-loan association," so as to make the clause read:

No borrower under this act shall be eligible as an appraiser under this section, but borrowers may act as members of a loan committee in any case where they are not personally interested in the loan under consideration. When any member of a loan committee or of a board of directors is interested, directly or indirectly, in a loan, a majority of the board of directors shall appoint a substitute to act in his place in passing upon such loan.

The amendment was agreed to.

The next amendment was, under the subhead, "Powers of Federal farm-loan board," on page 50, line 2, to change the number of the section from "21" to "20."

The amendment was agreed to.

The next amendment was, on page 50, line 22, after the word "penal," to strike out "sum" and insert "sums," so as to make the clause read:

(f) To prescribe the form and terms of farm-loan bonds, and the form, terms, and penal sums of all surety bonds required under this act and of such other surety bonds as they shall deem necessary, such surety bonds to cover financial loss as well as faithful performance of duty.

The amendment was agreed to.

The next amendment was, at the top of page 51, to insert:

(g) To require Federal land banks to pay forthwith to any Federal land bank their equitable proportion of any sums advanced by said land bank to pay the coupons of any other land bank, basing said required payments on the amount of farm-loan bonds issued by each land bank and actually outstanding at the time of such requirement.

The amendment was agreed to.

The next amendment was, on page 51, line 7, to change the letter in parentheses from "g" to "h."

The amendment was agreed to.

The next amendment was, under the subhead "Applications for farm-loan bonds," on page 51, line 11, to change the number of the section from "22" to "21."

The amendment was agreed to.

The next amendment was, under the subhead "Issue of farm-loan bonds," on page 52, line 18, to change the number of the section from "23" to "22"; and in line 21, after the word "twenty," to strike out "two," and insert "one"; so as to make the clause read:

SEC. 22. That whenever any farm-loan registrar shall receive from the Federal farm-loan board notice that it has approved any issue of farm-loan bonds under the provisions of section 21, he shall forthwith take such steps as may be necessary, in accordance with the provisions of this act, to insure the prompt execution of said bonds and the delivery of the same to the land bank applying therefor.

The amendment was agreed to.

The next amendment was, under the subhead "Form of farm-loan bonds," on page 54, line 18, to change the number of the section from "24" to "23," and in line 20, after the words "denominations of," to insert "$25, $50"; so as to make the clause read:

SEC. 23. That all bonds provided for in this act shall be issued under the authority and by the direction of the Federal farm-loan board. They shall be issued in denominations of $25, $50, $100, $500, and $1,000. They shall run for specified minimum and maximum periods, subject to be paid and retired at the option of the land bank at any time after 10 years from the date of their issue. They shall have interest coupons attached, payable semiannually, and shall be issued in series of not less than $50,000, whose amount and term shall be fixed by the Federal farm-loan board. They shall bear a rate of interest not to exceed 5 per cent per annum.

The amendment was agreed to.

The next amendment was, on page 55, line 6, after the word "concerning," to insert "the form of farm-loan bonds, and"; so as to make the clause read:

The Federal farm-loan board shall prescribe rules and regulations concerning the form of farm-loan bonds, and the circumstances and manner in which farm-loan bonds shall be paid and retired under the provisions of this act.

The amendment was agreed to.

The Secretary continued the reading down to the word "banks," in line 19, page 55, as follows:

Farm-loan bonds shall be delivered through the registrar of the district to the bank applying for the same.

In order to furnish suitably engraved bonds for delivery to Federal land banks and joint stock land banks, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved in the best manner to guard against counterfeits and fraudulent alterations, and shall have printed therefrom and numbered such quantities of such bonds of the denominations of $100, $500, and $1,000 as may be required to supply such land banks.

Mr. HOLLIS. Mr. President, on page 55, line 18, I move to insert "$25, $50," so as to correspond with the provision on the preceding page.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 55, line 18, after the word "of" it is proposed to insert "$25, $50."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. WALSH. Mr. President, before proceeding to the next subdivision, I should like to ask the Senate to recur to page 35 on which, with the preceding page, the powers of the Federal land banks are defined. Under the fifth subdivision it will be perceived that the Federal land bank is given authority:

To acquire and dispose of—

(a) Such property, real or personal, as may be necessary or convenient for the transaction of its business, which, however, may be in part leased to others for revenue purposes.

(b) Parcels of land mortgaged to it as security.

(c) Parcels of land acquired in satisfaction of debts or purchased at sales under judgments, decrees, or mortgages held by it.

Of course, the land bank ought to be given power to acquire such real estate as is essential for the conduct of its business. It also should be given the power, as provided in subdivision (c), to acquire lands in satisfaction of debts or sold under judgments, decrees, or mortgages held by it; but why invest it with unlimited power to buy "parcels of land mortgaged to it as security"? And why should a land bank be permitted to speculate in the lands which it holds as security?

Furthermore, it will be observed that, while it is there given power to acquire such lands, by subdivision (c) it is given the same power to acquire lands which shall be taken in satisfaction of debts or sold under judgments, decrees, or mortgages held by it, but such lands it can hold for no longer than five years, when it must get rid of them. The land, however, acquired under subdivision (b) being parcels of land held by it as security, it may purchase and apparently hold for an indefinite period. I should like to have a little enlightenment from the Senator from New Hampshire upon the significance of subdivision (b).

Mr. HOLLIS. Subdivision (b) was amended this morning to read:

Parcels of land mortgaged to it as security where default has occurred.

That was the intention. In some States the actual title to the land is passed by the mortgagor to the mortgagee, and the mortgagee may take possession on default without court proceedings. This was made to cover cases of that kind. It should, however, only cover such cases where default has occurred.

Mr. WALSH. Then, I ask the Senator if that is not covered by the next subdivision, which reads:

Parcels of land acquired in satisfaction of debt or purchased at sales.

That is to say, under the terms of subdivision (c) the land bank may take a piece of property in satisfaction of a debt to it. I still question the advisability of giving the land bank the power to buy any piece of property that is mortgaged to it as security because there has been default in the mortgage, inasmuch as that would easily permit a man who wanted to sell his land to the bank to suffer a default and then the power would exist in the bank to buy that land of the man upon just such terms as they might agree upon.

Mr. HOLLIS. Mr. President, of course, if there were default and the land were acquired in satisfaction of debts or purchased at sales under judgments or decrees, then the provisions of subdivision (c) would apply, and the lands could only be held for five years. That is the intention; but subdivision (b) was put in at the suggestion of a member of the committee, who called attention to the fact that in some States the title actually passed to the mortgagee when the mortgage was made; that it was a title that would pass, subject to defeasance on the condition being filled; and that subdivision (c) would not cover such cases in his State. Therefore he said this provision ought to be put in; and it would seem where it is provided that parcels of land acquired in satisfaction of debts may be held only for five years and where subdivision (b) says that parcels of land mortgaged to the land bank as security can only be acquired where default has occurred, that it would be cov-

ered; but I know the Senator from Montana is an able lawyer, and if he thinks otherwise and can suggest any other way to arrange it to cover all cases I shall be very glad to accept an amendment. It was not on my suggestion that the provision was inserted.

Mr. WALSH. I think that it is a very questionable power to put in the hands of the Federal land bank to acquire without restriction and to hold without restriction, and for an unlimited time, any land pledged to it as security for indebtedness.

Mr. HOLLIS. That is not the intention of the act, of course, and if the Senator will allow the paragraph to be passed over I will take that up and draw it so that there will not be any question about it.

Mr. WALSH. Very well.

The reading of the bill was resumed.

The next amendment of the Committee on Banking and Currency was, under the subhead "Special provisions of farm-loan bonds," on page 57, after line 11, to strike out:

SEC. 25. That the form of farm-loan bonds issued under this act shall be prepared by the Federal farm-loan board. The form of farm-loan bonds issued by a Federal land bank shall include, among other provisions, a copy of this section of this act, and a statement that the assets of all the Federal land banks and of one farm-loan association are jointly and severally liable for the payment of each bond, and shall further state the physical basis of such bonds in farm lands, and whether the first mortgages held as collateral security for its payment have been received from an association with a limited or an unlimited liability, and such other information as may be prescribed by the Federal farm-loan board.

Each bond shall also contain a certificate in the face thereof, signed by the farm-loan commissioner, to the effect that this bond has the approval in form and issue of the Federal farm-loan board and is legal and regular in all respects. It shall be signed by the president of the bank issuing the same and attested by its secretary.

The amendment was agreed to.

The next amendment was, on page 58, line 6, after the word "Sec.," to strike out "25" and insert "24"; in the same line, before the word "land," to strike out "Each" and insert "That each Federal"; in line 7, before the word "bound," to strike out "held to be"; in the same line, after the words "of its," to strike out "president" and insert "officers"; and in line 8, after the word "signing," to insert "and issuing," so as to make the clause read:

SEC. 24. That each Federal land bank shall be bound in all respects by the acts of its officers in signing and issuing farm-loan bonds and by the acts of the Federal farm loan board in authorizing their issue.

The amendment was agreed to.

The next amendment was, on page 58, after line 10, to strike out:

Said bonds shall state that they are authorized by the Federal farm loan board under the provisions of this act.

The amendment was agreed to.

The next amendment was, on page 58, after line 12, to strike out:

There shall appear in the face of each farm-loan bond provided for in this act the statement that such bond is not taxable by national, State, or municipal authority.

The amendment was agreed to.

The next amendment was, on page 59, after line 9, to insert:

Every farm-loan bond issued by a Federal land bank shall be signed by its president and attested by its secretary, and shall contain in the face thereof a certificate signed by the farm loan commissioner to the effect that it is issued under the authority of the Federal farm-loan act, has the approval in form and issue of the Federal farm loan board, and is legal and regular in all respects; that it is not taxable by National, State, municipal, or local authority; that it is issued against collateral security of Government bonds or first mortgages on farm lands, indorsed by farm-loan associations having double or unlimited liability of their members, as the case may be, and at least equal in amount to the bonds issued; and that all Federal land banks, stating the approximate amount of their aggregate capital and surplus, are liable for the payment of each bond.

The amendment was agreed to.

Mr. WALSH. Mr. President, I desire to question the wisdom of the last clause of the amendment found on page 59, "that all Federal land banks, stating the approximate amount of their aggregate capital and surplus, are liable for the payment of each bond," or, rather, that portion of it expressed by the language, "stating the approximate amount of their aggregate capital and surplus." That is changing at all times; is it not?

Mr. HOLLIS. Yes; but that would apply as of the time the bond was issued, and would not be reduced until the bond was paid.

Mr. WALSH. So that it would be substantially stable and the representation would be substantially accurate during the entire life of the bond?

Mr. HOLLIS. Yes; it would not be less than that until the bond was redeemed.

The reading of the bill was resumed.

The next amendment of the Committee on Banking and Currency was, under the subhead "Application of amortization and interest payments," on page 60, line 3, to change the number of the section from 26 to 25.

The amendment was agreed to.

The Secretary resumed the reading of the bill and read to the bottom of page 62.

Mr. SUTHERLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS in the chair). The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Beckham	Gronna	Newlands	Smith, S. C.
Borah	Hardwick	Norris	Smoot
Brady	Hollis	Overman	Sterling
Brandegee	Hughes	Page	Sutherland
Broussard	James	Pittman	Thomas
Burleigh	Johnson, Me.	Poindexter	Thompson
Chamberlain	Johnson, S. Dak.	Pomerene	Townsend
Clapp	Jones	Ransdell	Vardaman
Clark, Wyo.	Lane	Shafroth	Walsh
Cummins	Lewis	Sheppard	Warren
du Pont	Martine, N. J.	Sherman	Williams
Fall	Myers	Smith, Ariz.	
Gallinger	Nelson	Smith, Ga.	

Mr. OVERMAN. I desire to announce that my colleague [Mr. SIMMONS] is unavoidably absent. This announcement may stand for the day.

Mr. MARTINE of New Jersey. I have been requested to announce the unavoidable absence of the senior Senator from West Virginia [Mr. CHILTON], who is paired with the senior Senator from New Mexico [Mr. FALL], and also to announce the unavoidable absence of the junior Senator from Missouri [Mr. REED], on account of illness.

The PRESIDING OFFICER. Fifty Senators having answered to their names, there is a quorum present. The Secretary will proceed with the reading of the bill.

The Secretary resumed the reading of the bill, beginning on line 1, page 63.

The next amendment was, under the subhead "Reserve and dividends on land banks," on page 63, line 19, after the word "SEC.," to strike out "27" and insert "26," and on page 64, line 7, after the word "any," to strike out "of said," so as to make the clause read:

SEC. 26. That every Federal land bank, and every joint-stock land bank, shall, out of its net earnings, semiannually carry to reserve account 25 per cent thereof until said reserve account shall show a credit balance equal to 20 per cent of the outstanding capital stock of said land bank. Whenever said reserve shall have been impaired, said balance of 20 per cent shall be fully restored before any dividends are paid. After said reserve has reached the sum of 20 per cent of the outstanding capital stock, 5 per cent of the net earnings shall be annually added thereto. For the period of two years from the date when any default occurs in the payment of the interest, amortization installments or principal on any first mortgage, by both mortgagor and indorser, the amount so defaulted shall be carried to a suspense account, and at the end of the two-year period specified, unless collected, shall be debited to reserve account.

The amendment was agreed to.

The next amendment was, under the subhead "Reserve and dividends of national farm-loan associations," on page 64, line 22, to change the number of the section from 28 to 27.

The amendment was agreed to.

The next amendment was under the head of "Defaulted loans," on page 66, line 2, after the word "SEC.," to strike out "29" and insert "28," and in line 10, after the word "bonds," to insert "issued by said land bank," so as to make the section read:

SEC. 28. That if there shall be default under the terms of any indorsed first mortgage held by a Federal land bank under the provisions of this act, the national farm loan association or agent through which said mortgage was received by said Federal land bank shall be notified of said default. Said association or agent shall thereupon be required, within 30 days after such notice, to make good said default, either by payment of the amount unpaid thereon in cash, or by the substitution of an equal amount of farm loan bonds issued by said land bank, with all unmatured coupons attached.

The amendment was agreed to.

The next amendment was, under the subhead "Exemption from taxation," on page 66, line 13, after the word "SEC.," to strike out "30" and insert "29"; in line 16, after the word "State," to insert "municipal"; in line 20, after the word "banks," to insert "and farm loan bonds issued"; and in line 25, after the word "State," to insert "municipal," so as to make the clause read:

SEC. 29. That every Federal land bank and every national farm loan association, including the capital stock and reserve or surplus therein and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes upon real estate held, purchased, or taken by said bank or association under the provisions of section 11 and section 13 of this act. First mortgages executed to Federal land banks, or to joint stock land banks, and farm loan bonds issued under the provisions of this act, shall be deemed and held to be instrumentalities of the Government of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation.

Mr. SUTHERLAND. Mr. President, on yesterday, I think it was, I called the attention of the Senator from New Hampshire [Mr. HOLLIS], in charge of the bill, to this provision contained in section 29 which proposes to exempt from taxation certain of the property belonging to these Federal land banks and national farm-loan associations. The Senator from New Hampshire seemed to be entirely confident that the General Government had the power to exempt from taxation this species of property, and directed my attention to the case of McCulloch against State of Maryland, which was a decision with reference to the power of the State of Maryland to impose certain taxes against the United States bank.

I think a careful reading of that case will demonstrate that the question presented there was altogether different from the one which is presented by this bill. I think, in the first place, that even if the Government of the United States has the power to exempt this species of property from taxation at the hands of the State, it ought not to exercise it. It is a species of property which, when held by the private banks of the State, chartered under the laws of the State, is subject to taxation; and I see no reason why property of that same description, held by a bank which happens to be chartered by the Government of the United States, should escape taxation.

What is it that is proposed to be done? The language of the section is:

> That every Federal land bank and every national farm-loan association, including the capital stock and reserve or surplus therein and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes upon real estate held, purchased, or taken by said bank or association under the provisions of section 11 and section 13 of this act. First mortgages executed to Federal land banks, or to joint-stock land banks, and farm-loan bonds issued under the provisions of this act, shall be deemed and held to be instrumentalities of the Government of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation.

In what possible way can it be said that a first mortgage executed to a Federal land bank, for money loaned to a farmer in precisely the same way that money may be loaned to a farmer by a State bank and secured by a mortgage, is an instrumentality of the Government of the United States, and thereby exempt from taxation?

This bill is attempted to be tied to the Constitution by a somewhat slender thread. I am not prepared to say that the bill, taken as a whole, is unconstitutional. It may be conceded, at any rate, for the sake of the argument upon this question, that it is constitutional; but what governmental function does the Government of the United States discharge through these banks?

The bill provides that deposits of Government money may be made in these banks. It provides, in a somewhat general way, that the fiscal operations of the Government may be carried on through these land banks. To that extent these land banks become instrumentalities or agencies of the Federal Government in the same way that a State bank which is authorized to receive deposits of postal savings becomes an instrumentality of the Federal Government. In other words, the bank becomes an instrumentality of the Federal Government to that extent—to the extent to which the Government of the United States deposits its moneys in the bank, and to the extent to which the Government of the United States utilizes these banks in its fiscal operations. But in loaning money to the farmers it is not discharging any governmental function. The Government of the United States is not acting through the bank in doing that. The bank, in doing that, is discharging a purely private function—just as much a private function as is the individual loaner of money when he loans money to a farmer and takes a mortgage to secure it.

In the case of McCulloch against Maryland the situation was altogether different. There the Congress had provided for the creation and organization of a United States bank, through which the Government of the United States was to discharge its fiscal operations. Among other things, the bank was authorized to issue bank notes; and what the State of Maryland undertook to do was to provide by law that those bank notes, the issuance of which constituted a governmental function carried on through the bank, should not be issued except upon paper which the law of Maryland provided should bear a stamp, to be paid for by the bank, the value of which should be proportioned to the size of the note; and they undertook to provide further that these bank notes should be issued in certain definite amounts—$5, $10, $20, $50, $100, $500, and $1,000, as I recall.

The Supreme Court in that case very properly held that the act of the Legislature of Maryland was an attempt to tax a governmental operation performed through the bank; and the power to tax being the power to destroy, the power might be exercised so as to destroy that governmental operation. But the court nowhere held that the property of the bank could not be taxed; and, indeed, in the concluding part of the case—the case itself being a very long one, covering in the original volume something over 100 pages, with the statement of the case and the arguments of counsel and the opinion itself—in summing up, the court says:

> The court has bestowed on this subject its most deliberate consideration. The result is a conviction that the States have no power, by taxation or otherwise, to retard—

Now, observe the language—

> No power * * * to retard, impede, burden, or in any manner control, the operations of the constitutional laws enacted by Congress—

To do what?—

> to carry into execution the powers vested in the General Government. This is, we think, the unavoidable consequence of that supremacy which the Constitution has declared. We are unanimously of opinion that the law passed by the Legislature of Maryland imposing a tax on the bank of the United States is unconstitutional and void.

Now, I call particular attention to this concluding paragraph:

> This opinion does not deprive the States of any resources which they originally possessed. It does not extend to a tax paid by the real property of the bank, in common with the other real property within the State, nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution in common with other property of the same description throughout the State. But this is a tax on the operations of the bank, and is, consequently, a tax on the operation of an instrument employed by the Government of the Union to carry its powers into execution. Such a tax must be unconstitutional.

Mr. President, the question has arisen in a variety of forms since that decision and since the other decision, with reference to the same law, in the case of Osborn against United States Bank. In the case of the Railroad Co. against Peniston, which is reported in Eighteenth Wallace, the question came up with reference to the power of the State to tax certain of the transcontinental railroads which had been incorporated by an act of Congress, and which Congress had declared, among other things, should carry on certain of the operations in which the Government was interested, such as transporting troops, mail, and so forth. The case of McCulloch against Maryland and Osborn against The Bank were both cited by counsel as authority for the proposition that a law of the State of Nebraska undertaking to impose a tax upon the property of these railroad companies could not be sustained because it was a tax on an instrumentality of the Government of the United States, as it was claimed.

But the court disposed of the question in this way, and I read from the syllabus in Railroad Co. against Peniston, Eighteenth Wallace:

> The exemption of agencies of the Federal Government from taxation by the States is dependent not upon the nature of the agents nor upon the mode of their constitution, nor upon the fact that they are agents, but upon the effect of the tax; that is, upon the question whether the tax does in truth deprive them—

That is, the agents—

> deprive them of power to serve the Government as they were intended to serve it—

Now, observe, because it deprives them—

> of power to serve the Government as they were intended to serve it, or hinder the efficient exercise of their power. A tax upon their property merely, having no such necessary effect and leaving them free to discharge the duties they have undertaken to perform, may be rightfully laid by the States. A tax upon their operations, being a direct obstruction to the exercise of Federal powers, may not be.

There is nothing occult about a question of this character. It seems to me it may be disposed of by a very simple illustration. Here is an individual who is an officer of the Government of the United States. He is thereby an agency through whom the Government of the United States discharges some of its governmental functions. Now, no State can pass a law which will have the effect to obstruct or interfere with the operations of that officer in so far as they are governmental operations; but if he commits murder he may be prosecuted under the law of the State. If he commits any other offense against the law of the State, he may, of course, be prosecuted. The salary which he receives from the Government of the United States may not be taxed by the State, because that would be to interfere with him in the exercise of his functions, because the power to tax, I repeat, is the power to destroy, and they could conceivedly take away his salary entirely or take away so large a part of it as to render it impossible for him to act in the capacity to which he has been appointed. But the State may tax his property. The fact that he happens to be an officer of the General Government does not prevent the State from taxing a mortgage, if he holds it, if it be the policy of the State to tax mortgages; it does not prevent it from taxing his money, if he has money in the bank, from taxing his real estate, from taxing his personal property, from taxing anything that he has which in the hands of the ordi-

nary citizen may be taxed. It is exactly the same as to any other agency which the Government constitutes. The Government for certain purposes has constituted State banks its agents, as I have already stated, with reference to the receipt of postal savings bank funds, yet that does not give the Government of the United States power to provide that such a bank shall be exempt from taxation with reference to its mortgages or with reference to its other property.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield?

Mr. SUTHERLAND. I yield to the Senator from Iowa.

Mr. CUMMINS. Is it not true that if any property is exempted from the operation of State law in pursuit of the power of taxation it is constitutionally exempted? Can Congress exempt property from State taxation? Must it not be constitutionally exempt, in other words?

Mr. SUTHERLAND. I answer that with some hesitation, because there are certain intimations in some of the decisions, purely dictum, which may indicate the contrary. However, my own judgment is that Congress has no power to exempt from taxation anything which would not because of its nature be exempted under the provisions of the Constitution.

Mr. CUMMINS. I believe that is the better view; and it is preliminary to another suggestion. The modern and sounder opinion, I think, is that Congress has the power to provide for the incorporation of common carriers doing an interstate business. I think our late Attorney General held that Congress has the power to make an act of incorporation of that sort exclusive and require the carriers who propose to engage in transportation among the States to incorporate under a law of Congress, if one were provided. I think it is also the modern opinion that Congress can pass a law providing for the incorporation of any person or persons engaged in interstate commerce, all this under authority in the Constitution to regulate commerce among the States.

Now, if property is exempt from taxation on the part of the State, under the Constitution, I ask whether or not, if Congress should go on in its——

Mr. SUTHERLAND. In its mad career?

Mr. CUMMINS. I will not say that; but in its regulation of commerce among the States along the lines that have been so earnestly urged, would not the result be that practically all the property of the United States of that character would be exempt from taxation?

Mr. SUTHERLAND. Theoretically, of course, we face that conclusion. I will say to the Senator from Iowa that I am not quite prepared to assent to the proposition that Congress has power to provide that in order to enable a person or persons to engage in interstate commerce they must be chartered under the Federal Government. Indeed, I doubt very much whether Congress has power to that extent, because the right to trade between the States, I think, is a right which belongs to the citizens of the States, and the power of Congress is to regulate the right, and I doubt very much whether it can say that only a particular description of persons shall be permitted to engage in commerce among the States.

Mr. CUMMINS. Lest I may be misunderstood, I desire to say to the Senator from Utah that I share his doubt in that respect; but there is no great question that Congress may make a law which is optional in its character, so that corporations can be formed under it for the purpose either of engaging in general business among the States or of engaging in the business of common carriers. There are a great many people who believe that that is the only effective way of regulating commerce. If, however, the fact of organization under a Federal law would exempt all the property of these corporations from State taxation, it can be readily seen that it would be so inviting that all of them would become Federal corporations instead of State corporations.

Mr. SUTHERLAND. Of course, Mr. President, I do not think for one moment that Congress has any such power to exempt from taxation.

Mr. NELSON. Will the Senator from Utah yield to me?

Mr. SUTHERLAND. Certainly.

Mr. NELSON. There is a practical question in connection with this provision as it would apply to the State of Minnesota. Under the laws of our State a real estate mortgage before it can be recorded must pay a tax to the county treasurer. I think it is at the rate of 50 cents a hundred. A small mortgage under $100 is exempt. If a mortgage has to pay that tax before it can be recorded, manifestly no loan association or anybody else would take a mortgage that could not be recorded.

It is a universal rule pertaining to the transfer of real estate that such transfers, whether by deed or mortgage, are governed wholly by the laws of the State in which the real estate is situated. How can the Federal Government change the laws of the State of Minnesota in respect to real estate mortgages? If we insist in Minnesota that no mortgage on real estate shall be recorded until that tax is paid, can the Federal Government come in and veto that and prevent it? To my mind this would be an absolute obstacle in the State of Minnesota to the enforcement of this provision of the bill.

Mr. SUTHERLAND. I think the Senator from Minnesota is entirely correct. I do not think the Federal Government can interfere with a law of that kind.

Mr. HOLLIS. Mr. President, when the Senator from Utah has completed his argument I shall offer some suggestions in answer, but lest I forget the suggestion made by the Senator from Minnesota I should like permission to reply to his statement now.

Before the mortgages in any State can be received by the land bank in order to borrow money, the farm-loan board must investigate the laws of that State, and if they are not such as to recording of title and homestead exemptions, and so on, as to afford adequate security to the land bank, then the loans can not be made in the State until the laws are changed. If Minnesota is in the unfortunate predicament of having laws so that it could not come under this system, it will suffer and not the system.

Mr. SUTHERLAND. Mr. President, it seems to me that that would be an unfortunate meddling on the part of the Federal Government——

Mr. CLAPP. Yes; why, instead of the State suffering, should not the system be so amended that this regulation of the State shall be consistent with the system?

Mr. HOLLIS. When I come to answer the Senator from Utah I think I can show that the provision in Minnesota would conform to the act that we have under consideration, but that would be the answer in case they are so inconsistent that the State could not exempt mortgages from taxation.

Mr. WALSH. Before we pass from the subject, I should like to ask the Senator from Utah whether he concurs in the view expressed by the Senator from Minnesota that such a fee as that charged for filing a mortgage falls within the denomination of a tax such as is contemplated in the bill under consideration?

Mr. SUTHERLAND. No; I do not think it comes under the operation of this section, but I understood the Senator to use it as an illustration.

Mr. WALSH. Does the Senator from Utah agree about that?

Mr. SUTHERLAND. That we could do that?

Mr. WALSH. That we could do that. That no charge shall be made for recording them.

Mr. SUTHERLAND. Perhaps not. The two cases are not entirely parallel.

Mr. WALSH. But, Mr. President——

Mr. SUTHERLAND. I do not want to be led aside to discuss that particular question. It is not the immediate proposition involved.

Mr. CLAPP. If the Senator will pardon me, I think the Senator from Montana is doubtless laboring under the impression that it is a record fee. It is in no sense a record fee. It is a tax that has to be paid as a prerequisite to the right to have the mortgage recorded.

Mr. SUTHERLAND. And the tax is proportioned to the amount of the mortgage?

Mr. CLAPP. Certainly.

Mr. SUTHERLAND. Then, of course, it would come within the provisions of this section. It is a tax.

Mr. NELSON. It is not a recording fee; it is a tax. A recording fee has to be paid in addition.

Mr. SUTHERLAND. I did not understand that at first. I do now, and I answer the Senator from Montana that in my judgment it would come within the purview of section 29.

Mr. President, the power to tax is a sovereign power, and in one respect the most important sovereign power which can be exercised by any Government. It is a power upon the exercise of which every other power depends, and it exists to the utmost limit in the Federal Government and also in the State government.

The Federal Government has no power to interfere in any way with the power of the States to tax, and the State has no power to interfere in any way with the power of the General Government to tax; but the power of both governments to tax is subject to an exception, and that is that neither government can tax the instrumentalities of the other. However, the right of one is no more restricted than the right of the other.

The power of the Federal Government to tax the instrumentalities of the State is just as restricted, just as much forbidden as the power of the State to tax the instrumentalities of the Federal Government, only they must be instrumentalities.

Mr. HOLLIS. Mr. President, unless I might forget it when I come to reply, is not the Senator overlooking the well-established principle that while the Federal Government can tax out of existence bank notes issued by State banks the State can not tax the bank notes issued by national banks? There is a plain illustration.

Mr. SUTHERLAND. Mr. President, there does seem to be a distinction of the particular kind to which the Senator calls attention, but the Senator must remember that the decision to which he refers, the decision which held that the Federal Goverment had the power to tax the issues of State banks, was rendered many years after the decision in the McCulloch case. The decision was by a divided court, as I remember, and never has been regarded as being among the strongest decisions of the Supreme Court of the United States. It is a case that stands by itself. However, the general doctrine that I have laid down is recognized, I think, by all the cases.

Now I call attention to the decision of the Supreme Court in the case of National Bank against Commonwealth, which is reported in Ninth Wallace, page 353. In the course of that decision the court said:

It is certainly true that the Bank of the United States and its capital were held to be exempt from State taxation on the ground here stated—

That is, where they were instrumentalities of the Federal Government, by which its important operations were carried on—

and this principle, laid down in the case of McCulloch *v.* The State of Maryland, has been repeatedly affirmed by the court. But the doctrine has its foundation in the proposition that the right of taxation may be so used in such cases as to destroy the instrumentalities by which the Government proposes to effect its lawful purposes in the States, and it certainly can not be maintained that banks or other corporations or instrumentalities of the Government are to be wholly withdrawn from the operation of State legislation. The most important agents of the Federal Government are its officers, but no one will contend that when a man becomes an officer of the Government he ceases to be subject to the laws of the State. The principle we are discussing is its limitation, a limitation growing out of the necessity on which the principle itself is founded. That limitation is, that the agencies of the Federal Government are only exempted from State legislation, so far as that legislation may interfere with or impair their efficiency in performing the functions by which they are designed to serve that Government.

I call attention particularly to what immediately follows:

Any other rule would convert a principle founded alone in the necessity of securing to the Government of the United States the means of exercising its legitimate powers into an unauthorized and unjustifiable invasion of the rights of the States—

And so on.

The case of Railroad Co. against Peniston I have already referred to, and now I call attention to a paragraph in the case of Lane County against Oregon, in which it is said:

In respect, however, to property, business, and persons within their respective limits their power of taxation remained and remains entire. It is, indeed, a concurrent power, and in the case of a tax on the same subject by both Governments the claim of the United States, as the supreme authority, must be preferred; but with this qualification it is absolute.

With the qualification that when the Government of the United States and the State government tax the same thing the claim of the United States is paramount to that of the State—with that qualification the decisions says the power of taxation in the State is absolute.

The extent to which it shall be exercised, the subjects upon which it shall be exercised, and the mode in which it shall be exercised, are all equally within the discretion of the legislatures to which the States commit the exercise of the power. That discretion is restrained only by the will of the people expressed in the State constitutions or through elections, and by the condition that it must not be so used—

Now, mark again the language—

by the condition that it must not be so used as to burden or embarrass—

What?—

the operations of the National Government. There is nothing in the Constitution which contemplates or authorizes any direct abridgment of this power by national legislation. To the extent just indicated it is as complete in the States as the like power, within the limits of the Constitution, is complete in Congress.

Mr. STERLING. What case is that?

Mr. SUTHERLAND. That is a quotation from Lane *v.* Oregon (7 Wal., 57).

Now, I come to a sentence or two in the case of Railroad against Peniston, to which I referred that I desire to read, and I read it because the court in that case very carefully distinguished the case of McCulloch against Maryland and the case of Osborn against The Bank from the other cases which subsequently arose, and pointed out with great clearness the precise limits of the decisions in those two cases. After referring to those two cases, they say:

In the former of those cases—

That is, the McCulloch case—

the tax held unconstitutional was laid upon the notes of the bank. The institution was prohibited from issuing notes at all except upon stamped paper furnished by the State, and to be paid for on delivery, the stamp upon each note being proportioned to its denomination. The tax, therefore, was not upon any property of the bank but upon one of its operations; in fact, upon its right to exist as created.

I pause long enough to hazard at least the suggestion that if the State bank issue tax question had arisen at the same time and had been brought before the same court as the case of McCulloch against Maryland, the court at that time thus constituted would probably have held that the act passed by the Congress of the United States which sought to tax out of existence State bank issues would not have been valid. The court proceeds:

The tax therefore was not upon any property of the bank but upon one of its operations; in fact, upon its right to exist as created. It was a direct impediment in the way—

Of what?—

a direct impediment in the way of a governmental operation performed through the bank as an agent.

Not in some private function of the bank, but—

in the way of a governmental operation performed through the bank as an agent.

In other words, it was the same as if an attempt had been made to tax money issued by the Government of the United States, because it had utilized this bank as its agency through which to perform this governmental function or operation.

It was a very different thing, both in its nature and effect, from a tax on the property of the bank. No wonder, then, that it was held illegal. But even in that case the court carefully limited the effect of the decision. It does not extend, said the Chief Justice, to a tax paid by the real property of the bank, in common with the other real property in the State, nor to a tax imposed on the interest which the citizens of Maryland may hold in the institution, in common with the other property of the same description throughout the State. But this is a tax on the operations of the bank and is consequently a tax on the operations of an instrument employed by the Government of the Union to carry its powers into execution. Such a tax must be unconstitutional. Here is a clear distinction made between a tax upon the property of a Government agent and a tax upon the operations of the agent acting for the Government.

And the court proceeds:

In Osborn *v.* The Bank the tax held unconstitutional was a tax upon the existence of the bank—upon its right to transact business within the State of Ohio. It was, as it was intended to be, a direct impediment in the way of those acts which Congress for national purposes had authorized the bank to perform. For this reason the power of the State to direct it was denied, but at the same time it was declared by the court that the local property of the bank might be taxed, and, as in McCulloch *v.* Maryland, a difference was pointed out between a tax upon its property and one upon its action.

And further, on page 36 of this volume (18 Wall.), the court said:

It is therefore manifest that exemption of Federal agencies from State taxation is dependent, not upon the nature of the agents, or upon the mode of their constitution, or upon the fact that they are agents, but upon the effect of the tax; that is, upon the question whether the tax does in truth deprive them of power to serve the Government as they were intended to serve it, or does hinder the efficient exercise of their power.

Now, in what way are these land banks authorized to serve the Government of the United States? In receiving deposits of governmental money and in discharging some fiscal operation of the Government. When they are loaning money to a farmer they are not performing any governmental function; they are not engaged in any operation for the Government of the United States; it is purely a private function. They are not doing anything for the benefit of the Government of the United States; what they do is for the benefit of the farmer and for the benefit of the bank. They loan money to the farmer upon which they collect interest, and they are authorized to collect interest to such an amount, the bill contemplates, that the bank will earn dividends. It is purely a private business that they are engaged in, so far as that part of it is concerned. The case continues:

A tax upon their property has no such necessary effect. It leaves them free to discharge the duties they have undertaken to perform. A tax upon their operations is a direct obstruction to the exercise of Federal powers.

In this case the tax is laid upon the property of the railroad company precisely as was the tax complained of in Thompson against Union Pacific. It is not imposed upon the franchises or the right of the company to exist and perform the functions for which it was brought into being.

If the State had undertaken to impose a franchise tax upon the Union Pacific Railroad in that case, it would have been invalid.

It is not imposed upon the franchises or the right of the company to exist and perform the functions for which it is brought into being. Nor is it laid upon any act which the company has been authorized to

do. It is not the transmission of dispatches, nor the transportation of United States mails, or troops, or munitions of war that is taxed, but it is exclusively the real and personal property of the agent, taxed in common with all other property in the State of a similar character.

Now, we can imagine the railroad company acquiring a mortgage as a part of its property. Can there be any doubt that the taxing power of the State would have extended to that mortgage as well as to its rolling stock, to its track, and to its real property?

It is impossible to maintain that this is an interference with the exercise of any power belonging to the General Government, and if it is not, it is prohibited by no constitutional implication.

In a very strong opinion rendered in a similar case, involving the right to tax the Union Pacific Railroad, the case being reported in First Dillon, page 314, at page 320, speaking of the proposition that the State had no power to tax the Union Pacific Railroad because it had been created by the Government of the United States, and that, among its powers, it was authorized to perform certain functions for the General Government, Judge Dillon said:

The argument in support of this proposition is that the corporation was created by Congress and not by the State; that it was created because deemed by Congress a fit instrumentality or means of exercising the constitutional powers of carrying on, promoting, or facilitating the operations, or executing the duties of the General Government, and that if it be such instrumentality or means it is settled that it is beyond the taxing power of the State.

Then the court refer to the bank cases and state very briefly what they held, and then proceed:

The defendant controverts these propositions and contends that the Union Pacific Railroad Co., though chartered by Congress, is essentially a private corporation, whose principal object—

Let me pause to emphasize those words "principal object"—

is individual trade and individual profit, and not a public corporation, created for public and national purposes; and denies that it is an instrument, agency, or means of the General Government, in such a sense as, on this ground, to exempt it by necessary implication from taxation by the States. The cases referred to undoubtedly establish the doctrine that no State has the right to tax the means, agencies, or instrumentalities rightfully employed within the States by the General Government for the execution of its powers; and this doctrine is adhered to, and, when understood with the necessary qualifications, declared to be sound by the Supreme Court, in its latest adjudications on the subject.

Then, further on, the court says:

But the doctrine has its foundation in the proposition that the right of taxation—

That is, the doctrine that the State may not impose a tax upon the instrumentalities of the Federal Government.

But the doctrine has its foundation in the proposition that the right of taxation may be so used in such cases as to destroy the instrumentalities by which the Government proposes to effect its lawful purposes in the States, and it certainly can not be maintained that banks or other corporations or instrumentalities of the Government are to be wholly withdrawn from the operation of State legislation. * * * The principle we are discussing has its limitation—a limitation growing out of the necessity on which the principle itself is founded. That limitation is that the agencies of the Federal Government are only exempted from State legislation so far as that legislation may interfere with or impair their efficiency in performing the functions by which they are designed to serve that Government. Any other rule would convert a principle founded alone in the necessity of securing to the Government of the United States the means of exercising its legitimate powers into an unauthorized and unjustifiable invasion of the rights of the States.

Thus far the court is quoting from a case which I have already read. Then the court goes on, at page 323, to say:

The Government created the corporation—

That is, the Union Pacific Railroad—

The Government created the corporation and both authorized and aided the building of the road. It was to be constructed within the Territories of the United States; and if Congress was not the only power which could erect said corporation and authorize it to build the road therein, it is certain that no road could have been constructed through the national domain against the will of Congress.

The purpose of Congress is manifest not only from the nature of the legislative provisions, but from the plain expression of it, both in the title and in the body of the incorporating act. It is declared in the eighteenth section that "the object of this act is to promote the public interest and welfare by the construction of said railroad and telegraph line and keeping the same in working order, and to secure to the Government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other purposes," and to this end "Congress may, at any time, having due regard for the rights of said companies named herein, add to, alter, amend, or repeal this act." And to the same effect is the title, which is, "An act to aid in the construction of a railroad, etc., and to secure to the Government the use of the same for postal, military, and other purposes."

Therefore the case dealt with a corporation which was expressly designed to carry on operations for the Government far more important than anything of that character that is provided for in the bill now under consideration. Then I come to page 326, where the court says:

Congress had the power to create this corporation; it had the power to make its grants conditioned upon the performance by the corporation of certain duties; the power to reserve legislative control over it, as it did; and these and other provisions of the act intended to secure to the Government the use of the road for postal, military, and other public purposes are not abrogated or abridged by the subsequent admission of Nebraska into the Union as a State; and these rights are inalienable in their nature, without the consent of Congress, and not destructible by any act of the company.

Then the court sums up as follows:

1. That the Union Pacific Railroad Co. is not an instrument of the Government in such a sense as exempts it by implication from the taxing power of the State through which its road may be located.

2. If it be in any sense a Federal instrumentality, the rights of the Government, under the incorporating act, are fully protected and reserved, and any rights derived from a sale for taxes under State authority are entirely subordinate to the original, paramount, and indefeasible rights of the General Government; can not destroy the corporation nor incapacitate it from discharging any of its inalienable, fundamental, and organic duties to the Government. If so, then the case falls without the principle on which the corporation relies to sustain its application for an injunction.

I think I can discover in the more recent judgments of the Supreme Court evidences of a conviction on the part of the judges that the doctrine of implied exemption of Federal agencies from State taxation has been carried quite to its limit, and that it will not be pressed to embrace a case of the character of the one now under consideration.

It is true that in this case and in some of the other cases the statement is made that no exemption from taxation will arise by implication; but the suggestion made by the Senator from Iowa a short time ago, to my mind, must be necessarily true, and that is that the right of the State to tax being a sovereign right the Government of the United States can not interfere with it, unless it be necessary to protect its own instrumentalities or its own operations, either carried on directly or through some agency.

If we once accept any other doctrine, if we once say that the Congress of the United States has the power by an express enactment to do more than that, then we have taken away the sovereign power of taxation from the States, because there is nowhere to draw the line; in the very nature of the case there can be no limitation. If we have the power to say, because we have constituted a certain agency for the purpose of doing certain things for the Federal Government, that we may exempt from State control—because if we can exempt from taxation we can exempt from other control—that we may exempt from State control the operations of that agent which have nothing to do with the Federal Government, then where is the power to end? If we can exempt the mortgage taken by this institution, which constitutes property, upon what theory may we not exempt the farm which the land bank acquires when it has foreclosed one of these mortgages? It seems to me very clear that this is a sovereign power of the State, which the Federal Government is just as powerless to invade, except to protect its own operations, as is the State powerless to invade the sovereign taxing power of the Federal Government, except for the same purpose.

Now, I call attention—and this is the last case which I shall quote—to a recent decision in the case of South Carolina against the United States. That was a case where the State of South Carolina had undertaken to go into the liquor business.

Mr. HOLLIS. Will the Senator please give the reference to that case?

Mr. SUTHERLAND. It is in One hundred and ninety-ninth United States. That was a case where the State of South Carolina had gone into the liquor business, and the Federal Government undertook to collect taxes of the State, just as it collected taxes of corporations or individuals engaged in that business. The State insisted that that was taxing a State operation, and therefore could not be permitted, but the court held that the position was not well taken. The court in its decision, at page 461, said, after referring to a number of decisions:

These decisions, while not controlling the question before us, indicate that the thought has been that the exemption of State agencies and intrumentalities from national taxation is limited to those which are of a strictly governmental character, and does not extend to those which are used by the State in the carrying on of ordinary private business.

In that case they went further than it is necessary for me to go here, and held that even where the State itself engaged in the business, if it was a business that was in its essence ordinarily a private business, it could not escape taxation because it was the State which had embarked in it. At page 463 the court says:

It is reasonable to hold that while the former may do nothing by taxation in any form to prevent the full discharge by the latter of its governmental functions, yet whenever a State engages in a business which is of a private nature that business is not withdrawn from the taxing power of the Nation.

I repeat, in conclusion, that here is an attempt to create an organization for the purpose of doing two wholly distinct things: One, to carry on certain limited operations for the Government; that is, to receive deposits, and to carry on certain fiscal operations; and, second, to discharge the essentially private business of loaning money and collecting interest upon

the loans. The bill does not even contemplate that the Government of the United States necessarily shall be interested in the institution, because it provides that the stock in these various banking institutions shall be subscribed by private individuals; and that only in case there are not sufficient subscriptions from private persons is the Government of the United States to participate. In that event, the Government of the United States is to make up the difference between the subscribed capital and the authorized capital, but provision is made by which the Government retires from the business as a stockholder as quickly as it can, leaving it then wholly in the hands of private individuals.

So that in the last analysis we have a bank which is owned and operated, except for Government supervision, by private individuals engaged in a private business, and the bill undertakes to exempt from taxation the property which they acquire in the discharge of their purely private functions, and not in the discharge of any governmental operations or functions at all.

It seems to me that we are undertaking by that not only to do an unwise thing, to take from a State the opportunity of taxing valuable property within its limits, to which it must afford police protection, as it affords police protection to every other species of property within the State, but that we are doing something that we are without authority to do, namely to invade a sovereign power of the State.

Mr. TOWNSEND. Mr. President, may I ask the Senator a question?

Mr. SUTHERLAND. Yes.

Mr. TOWNSEND. Is there any difference in principle here than would be the case if Congress attempted to exempt from taxation the stock and mortgages of national banks now in existence all over the country? They are all taxed under State law.

Mr. SUTHERLAND. They are all taxed. Of course, the national banks are a good deal more closely related to the Government of the United States than the banks proposed under this bill will be related to the Government, and as a matter of fact, in the national banking legislation—I have not had occasion to examine it for some time—there are certain provisions which affirmatively recognize the right of the State to tax the capital stock of national banks.

Mr. TOWNSEND. And it is all taxed.

Mr. SUTHERLAND. And, as a matter of fact, it is all taxed. As a matter of practical construction, there certainly can be no more reason why the property of the banks proposed to be established under this bill should be exempted from taxation than that like property held by the national banks should be exempted.

Mr. JONES. Mr. President, I desire to present an amendment which I intend to offer to the pending bill, and ask that it may be printed and lie on the table.

I also present an amendment which I intend to propose to the substitute of the Senator from North Dakota [Mr. McCUMBER]. I ask that it may be printed and lie on the table.

The VICE PRESIDENT. Such will be the order, in the absence of objection.

Mr. HOLLIS. Mr. President, the distinguished Senator from Utah [Mr. SUTHERLAND] announces two prime propositions. He says, in the first place, that he does not agree with the policy of exempting these banks and their operations from taxation; and, in the second place, he does not believe in the right of Congress so to exempt them.

The second proposition always follows, in the case of a constitutional lawyer, from the first. Any lawyer who does not believe in a certain policy of Congress is sure to find somewhere in the decisions of the Supreme Court some basis for his position; and I could tell by looking over a list of the Senators of this body those lawyers who would find grave constitutional objections to doing what we are trying to do in this act.

The Senator from Utah has overlooked two or three very important principles. The first is that in McCulloch against The State of Maryland there was no action of Congress whatever exempting the bank or its operations from taxation. In that case the Congress of the United States did not undertake to cover the field of taxation; they allowed it by implication to the States; and yet the court held that, in spite of a failure to include in that statute establishing a United States bank an exemption from taxation, still the operations of the bank were exempt.

Now, take the national banks that exist to the number of 7,500 in this country. There has never been any question raised as to their constitutionality. The question was considered, and an opinion was anounced by the Supreme Court in the case of Farmers' National Bank against Deering, in Ninety-first United States, page 29, in which the constitutionality of the national-bank act was placed expressly on the authority of McCulloch against The State of Maryland. There has never been any argument that the constitutionality of the existing national-bank act rests in the power to issue currency. The Congress of the United States has no express power under the Constitution to issue currency; not the slightest; it has never been claimed that it has. All the authority that it has is to coin money; and the constitutionality of no bank act has ever been placed on the proposition that the bank in issuing currency was coining money or performing a Government function.

Mr. SUTHERLAND. Mr. President, may I interrupt the Senator?

Mr. HOLLIS. Yes.

Mr. SUTHERLAND. The Supreme Court, however, as I recall the decision, has held that having the express power under the Constitution to coin money, Congress has the power, when necessary, to provide a substitute for coined money.

Mr. HOLLIS. I should be very glad to have the Senator produce that case and show where it affected in any degree the constitutionality of any act that Congress has passed for that purpose.

Mr. SUTHERLAND. I am not speaking about it with reference to national-banking legislation; but I say that it has been held that, having the power to coin money, Congress has the power to provide currency or a substitute.

Mr. HOLLIS. That is very true, but the point here is that no bank has ever been declared constitutional because it was given the power to issue currency. If it had been, it would be an authority for the present act; and I wish it were so, because the bonds issued under this act will be just as much currency as the bank notes issued by national banks—precisely as much. They are issued in denominations running from $25 to $1,000; they are promises to pay; they are not legal tender; and that is all the national-bank notes are, namely, promises to pay; they are not legal tender. So, if the issue of currency makes any bank constitutional, the issue of these farm-loan bonds, which are payable to bearer, just as a bank note is, makes this act constitutional; and I hope the Senator will succeed in finding such a case. I have not been able to do so.

There is nothing in the Constitution of the United States which in express terms gives authority to Congress to establish a bank or any other corporation. There is no authority of the kind except by implication. McCulloch against the State of Maryland, which has remained undoubted and unquestioned authority for nearly 100 years, settles that point. Chief Justice Marshall wrote the opinion; Daniel Webster was counsel for the United States, and appeared with the Attorney General. That case decided that the Government can not be run with the express powers given it under the Constitution unless it can borrow money, unless it can regulate commerce between the States, and raise armies and navies. And the only concrete instance that Chief Justice Marshall cites of how that bank could perform Government functions is that it could transfer treasure from the East to the West and from the North to the South.

In the present bill precisely the same functions are given to the land banks that are given to the national banks under the national-bank act. The Supreme Court has nothing to do with the method by which Congress carries out the purposes that are confided to it. Who for a moment thinks that the Government of the United States ever intends to avail itself of all the 7,500 national banks as fiscal agents or as Government depositaries? It is for Congress to say that they may want to do so at some time; it is for Congress to say "We will establish banks of this kind as Government depositaries and as fiscal agents"; and if Congress says "We do it for that purpose," that settles it, and the Supreme Court can not go behind that verdict. So, Congress having decided that it will establish a bank and will make that bank—or 7,000 other banks—Government depositaries and fiscal agents the Government is acting in that sphere, and, so far as the Government acts in that sphere, it becomes supreme.

At this juncture let me call attention to another point which has evidently been overlooked by the distinguished Senator. He has discussed the occupation of a field of taxation by a State and its occupation by the United States, and says that where one has acted the other is excluded. In the railroad cases which he cited the Government of the United States did not act on the question of taxation. The Government set up the instrumentalities to conduct commerce between the States and to transport armies and ammunition, but it did not undertake to occupy the field of taxation so far as those instrumentalities were concerned.

In the present bill the distinguished Senator from Utah would not himself undertake to occupy that field of taxation, and, if he did not, undoubtedly the State would be left free to occupy

it; but where the Government, acting under a sovereign power, does undertake to occupy a field, it occupies it for all purposes and excludes the States from it. That has been decided, and very clearly decided, in a decision under the national-bank act in Veazie Bank against Fenno, 8 Wallace, 533. In that case the United States taxed State bank notes issued by a bank having a State charter, and the court held that the United States may tax bank notes not issued under its authority. That is undoubtedly so, and the opinion has been unanimously concurred in by all the banks of this country, and no State bank undertakes now to issue bank notes. If they did, they would be taxed, and there would be no profit in it. They could issue them if they wanted to pay a 10 per cent tax. Therefore, when the Government of the United States does act upon the subject of taxation concerning any instrumentalities that the Congress has seen fit to employ to carry out an authorized or expressed purpose of the Constitution, then it may act, and act with supreme authority.

In this instance, in section 6 of the pending measure, we have adopted the exact provision found in the national-bank act, to wit:

> That all Federal land banks and joint-stock land banks organized under this act, when designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties as depositaries of public money and financial agents of the Government as may be required of them.

If the national banks never in the world performed any governmental function whatever they would still be constitutional. The test is not, as the distinguished Senator seems to think, whether or not in the operation that is going on the bank is performing a governmental function. What governmental function is a national bank performing when it loans money to me on my note? None whatever. If Congress sees fit to give to the banks, so that they may exist through the employment of private capital, the power to make money in certain ways, Congress has a right to endow those institutions with such powers; and when they are exerting those powers, whether it is in a private capacity or in a public capacity, they are instrumentalities of the United States, not acting for a public purpose, but acting for a private purpose or any other purpose which can be conceived of, and if they are instrumentalities of the United States, then we may annex any conditions we may desire to the performance of any duties private or public. There can not be any escape from that.

Mr. CUMMINS. Mr. President——

Mr. HOLLIS. I yield to the Senator.

Mr. CUMMINS. My inquiry is whether the exception which the bill contains with regard to real estate is one of policy or one of necessity?

Mr. HOLLIS. Purely one of policy. We could exempt real estate just as much as we could the capital—there is no doubt about it—just as we exempt the post office when we buy real estate and put a Government building upon it. Of course we could.

Mr. CUMMINS. I assume that the Senator applies the rule he has just announced to the real estate as well as to the personal property of the bank?

Mr. HOLLIS. Certainly.

Mr. CUMMINS. And we could except all of it if Congress so desired?

Mr. HOLLIS. Certainly; but I think it would be very bad policy. Let us apply that for a moment.

The United States Constitution—and we do not consider it broadly enough in this body; now and then some one gets up and considers some section of it—declares, first, the purpose of the Constitution, among other things, to promote the general welfare and provide for the common defense, and then it proceeds immediately to discuss the powers of the legislative branch. It sets them up, first tells what the Senate and House shall be composed of, how they shall conduct their business, what shall be a quorum, and so forth, and then, in the eighth section of the second article, I believe, it says that the Congress shall have power to do certain things. We have to operate under the eighth section.

Among other powers given to Congress is the power to establish post offices and post roads. In order to carry that out we want a post-office building. A post office is not a building alone. A post office is a building with people in it to handle the postal business, but to carry out the purpose of constructing a post office we erect a building. We buy from the citizens of a State, from the owners, a certain tract of land, and we put up a post-office building on it. That is exempt from taxation. That is a discrimination against every other piece of real estate that does pay taxes; but we do it, and we could do it here. If it seems wise to Congress in establishing a useful instrumentality—one that will exist and be powerful enough to be of some service to the Government—Congress may exempt its real estate if it wants to, but I think that would be very poor policy.

Now, let me recur to the question of currency.

Most people confuse currency and coin. Coin is specie. It is metal, having a real value, an intrinsic value, and stamped by the Government so that it passes as legal tender from hand to hand. Currency is composed of paper money, bonds, securities, and bank checks. That is currency. It is used all the time as currency. It passes current from hand to hand, but is not legal tender. Now, the bonds issued under this act are just as much currency as the bank notes issued by the Riggs National Bank—just as much. One is legal tender as much as the other; that is to say, not at all. If the bonds secured by these mortgages are properly looked after and properly issued, they will be better currency than the bank notes issued by the Riggs National Bank. They will be better secured. So that if any Senator is going to put the right to establish a national bank on the ground of the power of Congress to issue currency, then this act is surely constitutional. There can not be any escape from that.

Recurring to the railroad cases that have been referred to, I have no hesitation in saying that if it had seemed to the Congress of the United States that it was necessary to exempt those railroads and their real estate from taxation, Congress would have had entire authority to do it. If Congress had believed that otherwise those instrumentalities would not have been vigorous and useful and would not have fulfilled the function of the Government that the Congress thought they would, Congress could have exempted them from taxation. But Congress did not do it, any more than Congress exempted the Bank of the United States from taxation in express terms; and right there comes the difference. Because the issuing of bank notes by the United States Bank was one of the necessary and useful functions to which Congress had regard, therefore the Supreme Court of the United States said: "That is such an operation of the government of the bank that Congress could not have intended that the State could tax it." Why? Because if the State could tax that function of the particular instrumentality—to wit, a bank—it could drive it out of business; and so the States could drive these banks out of business if they could tax them, and they would.

Mr. SUTHERLAND. Mr. President——

Mr. HOLLIS. I yield to the Senator from Utah.

Mr. SUTHERLAND. Does the Senator from New Hampshire think that Congress would have the power to exempt from taxation the engines and cars and other rolling stock of the Union Pacific Railroad?

Mr. HOLLIS. I certainly do, and there can not be any case produced deciding the contrary.

Mr. SUTHERLAND. Because it never has been tried.

Mr. HOLLIS. No.

Mr. SUTHERLAND. The case never has arisen.

Mr. HOLLIS. No; it has not been tried. The Senator asked me for my opinion, and I gave it; and I am entitled to it, as much as anyone else is entitled to his opinion, until the court decides differently.

Mr. SUTHERLAND. Certainly.

Mr. HOLLIS. Congress would not attempt to do it, of course; and I should not attempt to get the land exempted from taxation under this bill.

Mr. SUTHERLAND. I do not desire to interfere at all with the Senator's entertaining that opinion, but I ask the Senator this further question: I suppose the Senator concludes that Congress would have the power to exempt from taxation the property of the Union Pacific Railroad Co. because the Union Pacific Railroad Co., in certain aspects, was an agency of the Government?

Mr. HOLLIS. Yes. That is for Congress to decide, whether it is or not.

Mr. SUTHERLAND. The Senator recognizes that the Attorney General is an agency of the Government of the United States?

Mr. HOLLIS. I beg the Senator's pardon; I do not think the Attorney General is an agent of the Government of the United States. He is an official, with certain prescribed duties. He can not bind the Government of the United States.

Mr. SUTHERLAND. Does the Senator think he is an agency of the Government?

Mr. HOLLIS. I think he is an officer.

Mr. SUTHERLAND. Is he not an agency?

Mr. HOLLIS. Why, you may call him that. You may call him an instrumentality. I do not care what you call him.

Mr. SUTHERLAND. Does not the Government perform certain functions through him?

Mr. HOLLIS. Certainly.

Mr. SUTHERLAND. Does the Senator think that the Congress of the United States could exempt from taxation any of the individual property of the Attorney General?

Mr. HOLLIS. Why, I do not think any such thing. I do not know. I never have seen it decided. I can not conceive of anyone raising such a question. I do not care to give an opinion on such a matter.

Mr. SUTHERLAND. I personally can see very little difference in principle between the two things.

Mr. HOLLIS. That is because the Senator does not want to see the difference; and when a man does not want to see a difference, you can not make him see it. Knowing the Senator's drift of mind and his policy on public questions, I should not expect him to be able to see the constitutional power here, plain though it may be. I do hope the majority of the Senators will see it, and I am very confident the Supreme Court of the United States will see it if the bill is passed.

Mr. SUTHERLAND. I will say to the Senator, if he will permit me, that I am very glad that I have not the ability to see some things as some people see them.

Mr. HOLLIS. Well, that is pleasant, and I am much obliged.

Mr. CUMMINS. Mr. President, whatever may be said about the Senator from Utah, the Senator from Iowa is not a narrow or an illiberal constructionist of the Constitution.

Mr. HOLLIS. Well, I do not entirely agree to that.

Mr. CUMMINS. But I rise to ask this question: Does the Senator from New Hampshire think that Congress could have given the State of Maryland the right to tax the notes of the United States Bank?

Mr. HOLLIS. If Congress had said, "The notes of the United States Bank shall not be exempt from taxation by a State authority," that undoubtedly would have been constitutional.

Mr. CUMMINS. The Supreme Court held, however, that the tax was unconstitutional because repugnant to the Constitution; and the substance of the Senator's answer seems to me to be that Congress can, if it desires, waive the Constitution.

Mr. HOLLIS. No; I do not think that is at all so. Congress might have done it in this way, and it undoubtedly would, if it had acted. I am glad the Senator has raised that point, because it raises exactly the same question that was decided under the national-bank act. I say, and I believe, and the authorities sustain the proposition, that the Government might provide that the capital stock and the real estate of a national bank are exempt from taxation. I believe that. But Congress has said that the capital stock of a national bank may be taxed the same amount as the capital stock of other institutions of a like character in the State. Now, that is constitutional; and if it had made that same provision in the law under consideration in McCulloch against the State of Maryland that would have been constitutional.

I do not say that Congress can do anything repugnant to the Constitution. Of course it can not; and if it had made the same provision about the bank notes and had said that they should be subject to the same tax as bank notes issued by State institutions, that undoubtedly would have been constitutional.

Mr. CUMMINS. In the absence of any such statement as that, does not the Senator from New Hampshire think that an attempt on the part of the State to discriminate against the stock of a national bank or the property of a national bank would be invalid?

Mr. HOLLIS. Does the Senator mean under the statutes as they are?

Mr. CUMMINS. Without any statute at all on that subject.

Mr. HOLLIS. Without any statute? I think it would have been discrimination.

Mr. CUMMINS. And would have been entirely invalid?

Mr. HOLLIS. I think so.

Mr. CUMMINS. Even if Congress had not spoken at all?

Mr. HOLLIS. I think so; certainly.

Mr. CUMMINS. I am only trying to suggest that, in my opinion, whatever exemption from State taxation exists on the part of property within a State arises under the Constitution, and does not and can not arise under any law of Congress. Congress can neither add to nor take from the Constitution.

Mr. HOLLIS. Congress has acted in the national-bank act, however, which all concede to be constitutional.

Mr. THOMAS. Mr. President, the position suggested by the Senator from Iowa [Mr. CUMMINS] is entirely logical, to my mind; but it seems to me that it is overthrown, or at least it is affected, by the decision of the Supreme Court sustaining a tax placed upon State bank currency for the avowed object of suppressing it and making such issues impossible.

Mr. CUMMINS. Mr. President, if I may be allowed to mention that case, that is an authority arising under the power of the Federal Government to tax. It laid the tax. Of course, the power to tax need not be exercised by the General Government in every instance in which it has the power to tax. It is not so exercised now. The Federal Government has the right to tax every business concern in the United States, if it pleases, simply because it is carrying on that particular business; but it does not do so. It is a power in abeyance. So when the Federal Government came to lay a tax upon State bank circulation it did not involve the exemption of property from taxation under the Constitution.

The Senator from New Hampshire has not stated fully the reasons given by the Supreme Court in sustaining that act on the part of Congress. I think he will remember that there were a good many objections made against the tax. Among others, the question of direct and indirect taxation arose; and the Supreme Court finally sustained the Federal power, because it held that it was a function of the Federal Government to provide the people of this country with a circulating medium, and that the State bank circulation interfered with the power of the Government to provide the people of the country with a stable circulating medium, and therefore the Federal Government could designedly drive the State circulation out of existence.

Mr. HOLLIS. That is merely a matter of policy. That is not a matter of right; it is a matter of policy. Congress did that as a matter of policy. We are passing this bill as a matter of policy; but our right to pass it rests on a very different thing.

Mr. CUMMINS. Not at all.

Mr. HOLLIS. The Supreme Court has decided that the right to pass the national-bank act rests on the authority of McCulloch against the State of Maryland.

Mr. CUMMINS. Not at all. In the case of McCulloch against Maryland the question was, Can the State impose a tax upon a Federal instrumentality? There was nothing in the law which either gave the State the right to do it or withheld from the State the right to do it.

Mr. HOLLIS. I have not said there was. I said the national-bank act was decided constitutional on the authority of McCulloch against the State of Maryland, and it is true.

Mr. CUMMINS. I do not quite think so; but, then, that is——

Mr. HOLLIS. Well, if the Senator will do me the honor to read the case I cited to him, I think he will find it stated there in terms.

Mr. CUMMINS. I will read, however, the last paragraph in the opinion, if the Senator from New Hampshire will permit me.

Mr. HOLLIS. Which one?

Mr. CUMMINS. It is the case of Veazie Bank against Fenno. It is the case to which the Senator from New Hampshire referred a few moments ago.

Mr. HOLLIS. I beg the Senator's pardon. The case I referred to as establishing the constitutionality of the national-bank act was Farmers' National Bank *v.* Deering (91 U. S., 29).

Mr. CUMMINS. In the inquiry of the Senator from New Hampshire addressed to the Senator from Utah I am quite sure the Senator referred to that opinion.

Mr. HOLLIS. I did refer to it, but for another purpose—not for the constitutionality of the national-bank act, but for the power of the United States Government to tax State bank notes out of existence.

Mr. CUMMINS. To tax a State instrumentality.

Mr. HOLLIS. Yes. They are very distinct.

Mr. CUMMINS. And this is what the Supreme Court said in closing this opinion:

> Having thus, in the exercise of undisputed constitutional powers, undertaken to provide a currency—

I interpolate, through the national banks—

> for the whole country, it can not be questioned that Congress may, constitutionally, secure the benefit of it to the people by appropriate legislation. To this end Congress has denied the quality of legal tender to foreign coins and has provided by law against the imposition of counterfeit and base coin on the community. To the same end Congress may restrain, by suitable enactments, the circulation as money of any notes not issued under its own authority. Without this power, indeed, its attempts to secure a sound and uniform currency for the country must be futile.

The Supreme Court, in truth, did not treat the enactment which levied the tax as a part of the taxing power for revenue at all. It treated it as though it was an exercise of the power to destroy the State-bank circulation; and it could have done it in some other form quite as effectually and quite as constitutionally as it could have done it through the power of taxation.

Mr. HOLLIS. If the Senator will permit me, the case from which the Senator has read had nothing whatever to do with the constitutionality of the national-bank act, which set up the national banks as instrumentalities of this Government. It dealt with the power of the Congress of the United States to tax out of existence the State bank notes. There is no doubt about that. They decided, in the words of the opinion, that Congress had undertaken in a constitutional way to act through national banks; and in the case of the Farmers' National Bank against Deering, which called directly in question the constitutionality of the national-bank act, the decision was put precisely on the authority of McCulloch against State of Maryland, and not at all on the power to provide a suitable currency for the United States. That was the only point I wanted to make.

Mr. WILLIAMS. The Senators are talking about different things.

Mr. CUMMINS. I do not differ at all with the Senator from New Hampshire with regard to the reasons which underlie the power of the Government to establish national banks. I do not question the statement of the Senator from New Hampshire that the national banks of the country rest upon the same constitutional authority that was invoked in the case of the United States Bank in the early part of the century.

Mr. HOLLIS. I am very glad the Senator understands that. I did not want the other Senators to be misled.

Mr. CUMMINS. I was simply calling the attention of the Senator from New Hampshire to the fact that because the United States could tax, or destroy in any other method, State bank circulation, that was not even a step toward the argument that Congress could exempt these land banks and their property, their bonds, their stock, from State taxation.

Mr. THOMAS. Mr. President, if the Congress had enacted a law for the purpose of protecting its own issues of currency and in order to give the Nation a general system of currency circulation by prohibiting the issue of currency by State banks, I never should have questioned its authority to do so, in view of the decisions up to the time the statute taxing the State bank currency was passed. But it has always seemed to me that the decision in the case just referred to by the Senator from Iowa [Mr. CUMMINS] was opposed in principle to the doctrine of McCulloch against Maryland, which recognizes the exemption of State instrumentalities from Federal taxation quite as vigorously as it insists upon the exemption of the national instrumentalities from State taxation. Indeed, the statement of the one thing necessarily includes the statement of the other. But it did not legislate directly in prohibition of the issuance of currency by State banks.

There was a time when there were State banks in the true sense of the term—that is, banks which were organized by the State for the State, and which were controlled by and run in the interest of the State government. Of course, they did a general banking business. Now, the Federal Government, through Congress, for the purpose of protecting the currency of its own banks and giving it that national quality which it possesses, and which was desirable, in the exercise of its taxing power placed a tax upon the instrumentalities and the currency of the States and made it prohibitory. If we can conceive that State banks, or banks organized by authority of the States, notwithstanding such 10 per cent tax, had continued to issue their currency, it would have been good in the States of issue, at least. In other words, the enforcement of the tax does not of itself destroy the circulating quality, so to speak, of the bank note against which it was aimed.

That has been held, nevertheless, by the Supreme Court of the United States to be the exercise of a proper authority. If that be so, then it seems to me that if this bill sought to accomplish the same purpose by providing for prohibitory tax upon all other mortgages and all other bonds issued by or under State authority—we will say 10 per cent upon the amount which they represented—certainly that would necessarily be upheld by the Supreme Court of the United States if Congress has the power to enact this rural credits legislation at all; and inasmuch as that case has determined that Congress may, by the exercise of its taxing power, destroy a competitor, certainly it is not going too far to say that it may accomplish the same purpose by providing exemptions upon its own instrumentalities, its own currency, its own circulating medium.

Mr. LEWIS. Mr. President——

Mr. SUTHERLAND. Mr. President, may I ask the Senator from Colorado a question? I am not entirely sure that I apprehend the position that the Senator takes with reference to the Veazie Bank case. Does the Senator think that in that case the act was justified by the court upon the ground that it was a naked exercise of the taxing power?

Mr. THOMAS. I never have thought so, although, of course, I realize that the power to tax is the power to destroy. In fact, the Chief Justice says so. He uses that expression in McCulloch against Maryland.

Mr. SUTHERLAND. The Veazie Bank case, as I said in answer to the Senator from New Hampshire when he asked me about it, has never entirely satisfied my own judgment, which, however, does not matter very much.

Mr. THOMAS. I never have been able to reconcile it with previous decisions of the same court, but it is the law just the same.

Mr. SUTHERLAND. But I take occasion, with the permission of the Senator, to incorporate in the RECORD, so far as it deals with this question, the syllabus of that case, Veazie Bank against Fenno, in Eighth Wallace, at page 533:

> Congress having undertaken, in the exercise of undisputed constitutional power, to provide a currency for the whole country, may constitutionally secure the benefit of it to the people by appropriate legislation, and to that end may restrain by suitable enactments the circulation of any notes not issued under its own authority.

Mr. THOMAS. With that I agree, provided the power is exercised directly.

Mr. SUTHERLAND. Yes.

> The tax of 10 per cent imposed by the act of July 13, 1866, on the notes of State banks paid out after the 1st of August, 1866, is warranted by the Constitution.

It appears from that, taking those two syllabi together, that the decision of the court was based upon the proposition, not that it was a legitimate exercise of the taxing power per se, but that it was a law passed for the protection of the currency of the United States for which the Congress, in the exercise of its constitutional power, had provided. Notwithstanding that, there is a very strong dissenting opinion, as the Senator knows, and I think nobody can read the dissenting opinion without coming to the conclusion that it is the better reasoned of the two opinions.

At the conclusion of that opinion, Mr. Justice Nelson, speaking for the minority, said (p. 556):

> Even if this tax could be regarded as one upon property, still, under the decisions above referred to—
>
> Those, among others, were the United States Bank cases—
>
> it would be a tax upon the powers and faculties of the States to create these banks, and, therefore, unconstitutional.
>
> It is true that the present decision strikes only at the power to create banks, but no person can fail to see that the principle involved affects the power to create any other description of corporations, such as railroads, turnpikes, manufacturing companies, and others.

And, taking the dissenting opinion all through, I think the Senator will agree with me that it is a remarkably well-reasoned opinion.

Mr. THOMAS. I think it is unanswerable.

Mr. SUTHERLAND. The majority opinion can only be justified, as it seems to me, upon the single ground that the law is passed for the protection of the currency of the United States; and it is justified by the court just as they would have justified a law which had expressly declared that no such State notes should be issued at all.

Mr. THOMAS. Certainly. The Supreme Court having sustained the legislation, of course we must assume and also concede that the legislation was entirely within the purview of congressional authority; but its application here, to my mind, seems appropriate, provided it would give authority to Congress in this bill, by providing for a tax upon all other mortgages to the extent of 10 per cent, or a prohibitory tax, practically to do away with all possibility of competition in the operation of this law. If that be so, then it seems to me that the power exists to exempt, although they may be instrumentalities or may not be, those things which are provided for in this law, since that practically accomplishes the same purpose.

Mr. LEWIS. Mr. President——

Mr. CUMMINS. Mr. President, may I ask the Senator from Colorado a question with regard to the last suggestion, which I think is absolutely sound, if I understood him correctly? We have the same right to levy a tax of 10 per cent or any other proportion upon every mortgage issued in the States, and thus compel the land banks to do all the business, that we have to exempt the mortgages of the land banks or their bonds from taxation, and in that way drive other mortgages out of existence. I understood the Senator to say that both would rest upon the same constitutional authority, and I think he is right about that. If we could do either—if we could do what we now propose to do, exempt these things from taxation—we could accomplish the same purpose by imposing a direct tax upon mortgages that are not issued by the land banks.

Mr. THOMAS. Yes. In other words, it is a choice of method of procedure.

Mr. CUMMINS. So the Senator from Colorado believes that we could, if we desired to do it, put a tax of 10 per cent, or any other sum, upon every mortgage issued upon farms in the United States?

Mr. THOMAS. I would not want to go so far as to say I think we have that power. The decision to which the Senator referred seems to give it. If we have the power, then if we can accomplish the same end by exemption from taxation of mortgages and bonds provided for by this act, we have the power to do it. Now, whether Congress has the power to enact legislation of this kind, to place a prohibitory tax on all bonds and mortgages, I do not want to commit myself. This decision goes a long way in that direction. I think, however, I can say with perfect safety that if we have the power to enact this bill at all, if Congress has the power to create a system of rural-credit banks, then it has the power to enact all the legislation necessary for the protection and for the operation of the system; and upon the assumption that we have that power, coupled with the decision to which the Senator refers and the other decisions that have been quoted here, it seems to me that the provision which is now the subject of consideration is within the power of Congress.

Mr. LEWIS. Mr. President, I wish to address myself to the question, if the Senator from Utah will allow me. I happened to come into the room while the controversy upon the legal aspect of this bill was being indulged by the Senator from Utah, the Senator from New Hampshire, and the Senator from Iowa. I heard the Senator from Utah quote the concluding paragraph from the opinion in Ninth Wallace. Am I right in this?

Mr. SUTHERLAND. I referred to Ninth Wallace. I do not remember whether what I read was the concluding paragraph.

Mr. LEWIS. I make the inquiry of the Senator, knowing him to be a skilled lawyer, living as he does in Utah and knowing the litigation involved in the Union Pacific Railroad Co. My mind reverts to the case of Peniston against Union Pacific Railroad Co., in Eighteenth Wallace, where, if I am not in error, the Supreme Court there held, touching the Union Pacific, that whether a tax levied upon governmental agency was good or whether one could be exempted as righteous, turned rather on the effect the tax worked than upon the designation of it by name or purpose.

I will ask the Senator from Utah does he not think that that so modifies the rule laid down in Ninth Wallace as to leave it as follows: That the right of the Government to exempt the tax, the legality or not, the validity or not, will turn upon the effect that the courts will give as to how far such stimulates circulation or restrains, to leave it rather a question of fact than one of law. Would not the Senator conclude that such must be the result of the ruling to which I allude, if I am right in my memory?

Mr. SUTHERLAND. It is entirely due to my dullness, no doubt, but I do not well get the point the Senator makes.

Mr. LEWIS. I may have misunderstood the Senator from Utah, and I am anxious to see if I did. Does the Senator from Utah contend that an attempt by the Federal Government to exempt this proceeding, this State bank issue, from State taxes, was per se illegal?

Mr. SUTHERLAND. My point is that the Government has no power to exempt property lying within the limits of a State from State taxation simply because the property happens to belong to an agent of the Federal Government or an agency of the Federal Government.

Mr. LEWIS. In reference to that last point, then, I ask the Senator if his mind reverts to the case against the Owensboro Bank, in One hundred and seventy-third United States? I think there it was held that it was in the power of Congress to make a reservation by its own act of a right of a State to impose a tax on a Federal institution. Am I right about that?

Mr. SUTHERLAND. I do not recall the case the Senator refers to, but no doubt the Senator has stated it accurately.

Mr. LEWIS. Let me call your attention, for I am anxious myself about this, and I must be free to say to the Senator I trust I am not intruding. This question of taxes we are now discussing fell under me in a professional way, and the whole field of it I had to go through with. I argued the contention of the right of the city of Chicago to levy a tax upon certain instrumentalities of the Federal Government by virtue of municipality. I wish to say to the Senator I argued that case with such power and capability, with such irrefutable logic, that the court, at the conclusion of my argument, decided it for the other man without hearing him at all. [Laughter.]

Mr. SUTHERLAND. I do not blame the court a particle.

Mr. LEWIS. But in this pursuit my mind was especially addressed to the distinction, and I am very much interested in the point the Senator suggested, and particularly the distinction which he presented, and which the Senator from Colorado and the Senator from Iowa sought to sustain. I ask the Senator if he can see the distinction in the case of Owensboro against the National Bank. I will read only a part of the syllabus, where the court say—and they went very far, as the Senator says, in opposition to what appears as a general principle:

A State is wholly without power to levy any tax, either direct or indirect, upon national banks, their property, assets, or franchises, except when permitted so to do by the legislation of Congress.

I am strongly impressed with the idea that previous to this decision and previous to the decision that followed it in 180, a case that came from the West, there was a general idea that the State had no such power, and the creation by Congress of a Federal institution of this kind promptly placed it within constitutional protection, and within that Federal constitutional immunity it was safe and secure.

But I state to my able friend from Utah here is where I am embarrassed. If it is in the power of an act of Congress to subject an institution to State taxation, is it not equally in the power of Congress to waive the right and exempt it from taxation?

Let me reverse myself and make it shorter and make it plain to the mind, because if it is not legal we ought not to pass it. I am for the measure generally, but I do not wish to vote for what is illegal, and I wish the Senator's opinion. If we can pass this measure and provide that there shall be an exemption, if we can provide that no State shall put a tax upon this property, do we not simply say to the State we have created an agency for the general use of the Federal Government, and therefore to that extent we deny the right of the State to burden it by that taxation? Would not that act of Congress prohibit the State within the meaning of this decision from levying that tax?

Mr. SUTHERLAND. Let me ask the Senator from Illinois a question. This bill creates a so-called land bank, and among other things it provides that the Government of the United States may deposit funds in that bank, and that it may discharge—I do not remember what they are—fiscal operations for the Government of the United States. To that extent this bank may be regarded as an instrumentality of the Federal Government. But the association is made up of private stockholders, private individuals, who put their capital into the bank and take stock, and these private individuals operate the bank, and in the course of their operations they loan a farmer $1,000 and take from the farmer a mortgage upon his land. I ask the Senator from Illinois what governmental function the bank performs in making that loan?

Mr. LEWIS. Has the Senator concluded?

Mr. SUTHERLAND. Oh, yes.

Mr. LEWIS. My judgment would be this, Senator, that in his position as a citizen of the United States the United States is assumed to give him the right to enjoy the privileges of money and its circulation; that it has provided an agency to accomplish that purpose, and when it provided the agency by Federal legislation, the office of the Federal Government that was being discharged, was the opportunity to enjoy the circulation upon the security tendered which the Government had elected to select.

Mr. SUTHERLAND. Does the Senator from Illinois think that the loan of money is a governmental function or a private function?

Mr. LEWIS. The Senator remits me now to the vexed discussion that has been with us from the founding of this Government. My judgment is this, that the lending of money by the Federal Government to the citizen is a governmental agency. The lending the Government by a private agent in exercising the privilege of the charter of the Federal Government is private business.

Mr. SUTHERLAND. If the Senator thinks that loaning money is a governmental function, there is no common ground for us to argue upon. The Senator thinks whenever the Government does anything that makes it a governmental function?

Mr. LEWIS. Otherwise the Government could never enforce it. The moment it attempted to enforce it any one of the sovereignties could step in and say, "It is not governmental for you to enforce it, because the doing of it is in the exercise of a private capacity, and therefore a Government can not enforce it." I take it that to avoid a punishment for a violation of the Government decree it would be answered that true you authorize it and carry it out, but as a Government you can not punish the disobedience. It would be impotent unless it was a Government act, from my point of view.

I should like to ask the Senator from Utah to look at this case which I hand to the Senator, and in this case of Peniston against the Union Pacific, Eighteenth Wallace. I should like to call the Senator's attention to that. A specific qualification of

Ninth Wallace, read by him, is made; but I am not quite so sure to the extent. My mind is a little hazy. It has been some time since I had occasion to use this case.

May I read from page 30, Railroad against Peniston, which came from Utah and Kansas, and it involved the whole Government railroad line through, and the case from which the Senator read with much appropriateness a moment ago? On page 30 the Senator will find this:

There are, we admit, certain subjects of taxation which are withdrawn from the power of the States, not by any direct or express provision of the Federal Constitution but by what may be regarded as its necessary implications. They grow out of our complex system of government, and out of the fact that the authority of the National Government is legitimately exercised within the States. While it is true that Government can not exercise its power of taxation so as to destroy the State government or embarrass their lawful action, it is equally true that the States may not levy taxes the direct effect of which shall be to hinder the exercise of any powers which belong to the National Government. The Constitution contemplates that none of those powers may be restrained by State legislation. But it is often a difficult question whether a tax imposed by a State does in fact invade the domain of the General Government—

The question the Senator asked me a moment ago—

or interfere with its operations to such an extent, or in such a manner, as to render it unwarranted.

A distinction I sought to make to the able Senator in my reply.

It can not be that a State tax which remotely affects the efficient exercise of a Federal power is for that reason a loan inhibited by the Constitution. To hold that would be to deny to the States all power to tax persons or property. Every tax—

And so forth.

Then they proceed:

Hence the Federal Constitution must receive a practical construction.

And the court discusses the correlative relation of taxation.

I respectfully urge upon the able Senator's attention this point. Would not the Senator conclude from this, and this opinion following, that the subject matter of tax, the method in which it operates, the effect it has upon the subject matter which must be the basis to determine whether it is legal or not—I ask the Senator, would not the tax be illegal if it shall be held that in its operation it does serve to retard the instrumentalities of the Federal Government? Would it not be held, therefore, illegal if we put one upon it and so served in its operation to retard the object? Are we, therefore, not back again to the question as to the effect of the operation of the tax that the State may or may not tax the Federal Government or may or may not grant the immunity, according to the purpose of the legislation, rather than to the mere distinction in powers of State and Federal Government?

Mr. SUTHERLAND. Mr. President, my complaint about this exemption is that it interferes with the sovereign power of the State to tax within the limits of the State the same kind of property that it taxes in the hands of private individuals, simply because it happens to be held by an association which in an altogether different connection may act as an agency of the General Government.

Mr. STERLING rose.

NOMINATION OF LOUIS D. BRANDEIS.

Mr. SUTHERLAND. Mr. President, the Senator from Arizona [Mr. ASHURST] is, I see, in his seat, and I want to call attention while he is here to an interview which purports to have been given by the Senator to the newspapers, as reported in the Washington Herald of this morning. In the course of that interview, the Senator from Arizona is quoted as having said—I read the article:

The session of the Judiciary Committee of the Senate held yesterday to consider the nomination of Louis D. Brandeis for Associate Justice of the Supreme Court was attended with some acrimony and Senator ASHURST, who is favorable to the confirmation of Brandeis, left the meeting in perturbed state of mind after telling the Republican members of the committee that they were deliberately filibustering against a report on the nomination.

I hope the Senator from Arizona was not responsible for giving that interview, because nothing of the kind occurred.

Mr. ASHURST. That is true.

Mr. SUTHERLAND. In the first place, no Republican Senator is responsible for not having an immediate report made on the Brandeis case. On the contrary, so far as I am informed, the Republican members of that committee are quite ready to vote upon it at any time; and, second, if the Senator was in a perturbed state of mind, I did not observe it. In the third place, the Senator did not tell the Republican members of the committee that they were deliberately filibustering or that they were filibustering at all, because I was present during the whole of the meeting and nothing of that sort occurred.

Mr. ASHURST. If the Senator will yield to me, I will state that I have never seen that interview. I never said in the Judiciary Committee that the Republican members were filibustering. I have never seen that interview. The interview which I saw in the New York World was one that is substantially correct. When I came out of the Judiciary Committee yesterday morning I did say something in response to questions about this case, and, Mr. President, as was my wont and my custom, I said what I thought. I am not of that character of public men who give an interview to a newspaper reporter and then when the newspaper man honestly and faithfully publishes the same, shifts the responsibility and say the paper garbled the statement.

What I said to the newspaper man was this. The reporter asked me, "Do you think the Republican members are filibustering until after the convention?" I said "Yes, sir"; and I did think it, and, upon the whole, I think it now.

Mr. SUTHERLAND. Let me say to the Senator——

Mr. ASHURST. Just a moment.

Mr. SUTHERLAND. The Senator will permit me a moment right there. I wish to say if the Senator thinks so the thought of the Senator is without warrant.

Mr. ASHURST. I am glad to know that.

Mr. SUTHERLAND. There is not any other member of the committee, in my judgment, who will agree with the Senator.

Mr. ASHURST. I think that is quite true.

Mr. SUTHERLAND. Democrat or Republican.

Mr. CLARK of Wyoming. If the Senator from Arizona had been as faithful in his attendance upon the hearings as the Republican Members and other Democratic Members have been, he would not have formed that notion, because I say for both the Republican and the Democratic members of the committee that they have proceeded with fair and honest purpose to reach a definite conclusion, and I can only regret that the Senator from Arizona has not honored the committee with his presence so as to assist them in that laudable purpose.

Mr. ASHURST. Mr. President, unlike some other members of the Judiciary Committee I do not pretend to deliberate when my mind is made up. I do not wish any members of the Judiciary Committee, of which I happen to be a member, to feel offended. A member of the Judiciary Committee told me this afternoon that I had violated the proprieties in stating what took place in the Judiciary Committee. Mr. President, you can remove me from the Judiciary Committee, but you can not seal my mouth.

Mr. CLARK of Wyoming. The Senator has reference to me. I did not make the statement. I said I thought retailing in public what occurred in executive session of the Judiciary Committee or any other committee was an impropriety, the same as it would be to reveal what occurred in an executive session of the Senate.

Mr. ASHURST. I deny here and now that I retailed what took place. I do not say what took place. I assert here on my responsibility as a Senator, and I call the reporter to witness, that I never stated what took place. I said what I thought, and I should like to see the color of the person's hair who can imprison my thoughts. I can well understand the perturbation, indeed the astonishment, that must have greeted the Republican Party when the name of such a man as Louis D. Brandeis was sent in to be a justice of the Supreme Court.

If the nominee had been a man who all his life had been steering giant corporations around the law, there would have been a yell of approval from the Republican side, but there having been sent in the name of a man who has consecrated his life to the poor people of this country, casuistry must be resorted to, and then all the delay that can be conjured up is resorted to.

Mr. CLARK of Wyoming. Mr. President——

Mr. ASHURST. Just a moment. As to whether or not there is a filibuster on the case can easily be determined next Monday morning by a vote on the matter. If all are willing to vote and do vote, then I shall believe there is no filibuster; but it must not be forgotten, in connection, that in your desperation to secure a candidate whom you think could win, in your desperation to overthrow Woodrow Wilson—not Republican Senators, they are above it—but their party has reached out its hands and attempted to grasp from the Supreme Court of the United States one of its members in order to mingle him in the debaucheries of politics, and so flagrant is your disregard of that great court that one of your own members, the Senator from California [Mr. WORKS], an honored member of the Judiciary Committee, openly rebuked you in the Senate for that conduct.

I do not resent the resentment which you feel over my interview. I again assert I did not say what took place in that committee; I said what I thought and I stand by it.

Mr. CLARK of Wyoming. Well, Mr. President, I have nothing further to say than what I have said. Attention has been called

by a Senator to an interview which was given out, and which the Senator from Arizona fathers. The interview states anything but the truth. The Senator himself is perfectly aware of that, because he has been informed of it, and he has reliance on the word of those who have informed him. All the tirade about political matter cuts no figure. The interview is denied.

Mr. LEWIS. Mr. President——

Mr. ASHURST. Just a moment.

Mr. WORKS. Mr. President——

Mr. ASHURST. Just a moment, please. I hardly know what effect that would have. The interview can not be denied, because I gave it. I gave the interview, and I assert I believed it when I said it. If the Senator wants to say he does not believe that I believed it, that is a different question.

Mr. SUTHERLAND. Let me ask the Senator, did the Senator give the interview I read?

Mr. ASHURST. No. I did not. The interview I gave was this——

Mr. SUTHERLAND. Let me ask the Senator, does the Senator repudiate the statement in the Herald which I read?

Mr. ASHURST. Let me see what the Senator wants me to repudiate before I do any repudiating.

Mr. WORKS. Mr. President——

Mr. ASHURST. Pardon me just a moment. This paper, the Washington Herald, which is usually an accurate paper, says as follows—I omit the headlines, because headlines never mean anything in a newspaper:

The session of the Judiciary Committee of the Senate held yesterday to consider the nomination of Louis D. Brandeis for Associate Justice of the Supreme Court was attended with some acrimony.

That is not so; there was no acrimony displayed. I did not feel any acrimony, and do not feel any now.

Senator ASHURST, who is favorable to the confirmation of Brandeis, left the meeting in a perturbed state of mind.

Well, that is not so.

After telling the Republican members of the committee that they were deliberately filibustering against a report on the nomination—

That is wholly and purely a fabrication. I did not tell any Senator such a thing.

Later, after he emerged from the committee room, the Senator said that there was a disposition to postpone action on the nomination until after the national conventions. He charged that questions had been asked for the twentieth time in the committee—

That is true, though I did not charge that. The same question has probably been asked 20 times.

Mr. SUTHERLAND. To what question does the Senator refer?

Mr. ASHURST. Like many things in this life, they are too numerous to mention.

Mr. SUTHERLAND. I do not recall any such question as the Senator mentions. I would be glad if he would point it out.

Mr. ASHURST. The statement in the Herald continues—

and old straw thrashed over, and the Senator intimated that if dilatory tactics were persisted in the matter might be taken up in the executive session of the Senate and a motion made to discharge the committee from further consideration of the case.

Mr. President, I do not wish to be stapled to this interview as reported in the Herald. I say again that what took place was this: As I emerged from the committee room I met a number of reporters. It has not been my habit to state what takes place in any executive session, although I am opposed to any kind of executive sessions. If I had my way, there would be no such thing as an executive session—the doors would be unlocked and open. I was asked by the reporters if I thought a filibuster was being conducted on the Brandeis nomination until after the conventions. The words were put to me in that way, and I said, "Yes; I think so, and I wish you would say so in your newspapers."

Mr. CUMMINS. Mr. President——

Mr. ASHURST. I yield to the Senator from Iowa.

Mr. CUMMINS. Does not the Senator know that substantially the entire session of the committee to which he refers in the interview was consumed in an argument made by a Democratic member of the committee in favor of Mr. Brandeis?

Mr. ASHURST. The Senator from Wyoming stated the truth when he said I had not been in attendance at all times upon the Judiciary Committee meetings.

Mr. CLARK of Wyoming. The Senator was present yesterday.

Mr. ASHURST. I was there yesterday, and I want to say that I have not been present because I had to attend conference meetings on the Indian appropriation bill, which have lasted a month and were only finished this morning.

Mr. CUMMINS. Then the Senator does not know what I have just stated in the form of an inquiry?

Mr. ASHURST. I can not answer that question.

Mr. CUMMINS. I am sure the Senator will be so assured by his fellow Democratic members of the committee. Does he know that three-fourths of the time that has been taken up since the nomination was reported to the full committee has been consumed by Democratic members of the committee?

Mr. ASHURST. Yes; and I deplore that. I deplore a Democratic filibuster even more than I do a Republican filibuster.

Mr. CUMMINS. The Senator from Arizona stated nothing about a Democratic filibuster.

Mr. ASHURST. No; I did not, because when I think of a filibuster I think of your party. It filibustered three months last winter to beat the ship-purchase bill, so that the Shipping Trust might get a greater advantage over the people; and when I think of a filibuster I think of Republicans.

Mr. CUMMINS. However, in this instance I should think the Senator from Arizona would want to be accurate about it.

Mr. ASHURST. Well, I do want to be; and I hope that I am reasonably accurate.

Mr. CUMMINS. Does not the Senator know that the Republican Members have been ready to vote upon this nomination since the time it came in, and have offered over and over again to take a vote upon it; and it has so happened—and it might just as well be known now—it has so happened that the Republican Members have been in attendance and some of the Democratic Members have not been in attendance, so that if a vote had been taken it would probably have resulted at any time in an unfavorable report, so far as Mr. Brandeis is concerned?

Mr. ASHURST. That is all the more to be deplored.

Mr. WORKS. Mr. President——

The VICE PRESIDENT. Does the Senator from Arizona yield to the Senator from California?

Mr. ASHURST. In just a moment. I wish to say before I conclude, that if the Democratic President had sent in here the name of some corporation lawyer, whose life had been given up to steering corporations around the law, for instance, the former Senator from New York, I do not suppose there would be any of the simulated anger which has been manifested here because I said to a reporter of a newspaper what I thought.

Mr. WORKS. Mr. President——

Mr. SUTHERLAND. Mr. President, if the Senator from California will permit me just a moment, there is no "simulated anger" here; there is no anger at all. I for one resented what appeared to be an absolutely false statement, and one which the Senator himself now denies; that is all.

Mr. ASHURST. I deny that which the Herald has put into my mouth, and I regret it, because the Herald is usually an accurate paper. I want to put into the RECORD a clipping from the New York World, which I think very fairly states what I said. I ask that permission, Mr. President.

The VICE PRESIDENT. Without objection, permission is granted.

Mr. WORKS. Mr. President——

The VICE PRESIDENT. The Senator from California.

Mr. WORKS. Mr. President, I am a member of the Judiciary Committee, and I think the Members of the Senate know what my views are respecting the appointment of Mr. Brandeis. I was on the subcommittee and have made a separate report, as other members of the subcommittee have done, expressing my views as clearly as I could state them. I have attended every meeting of the Judiciary Committee since that matter has been under consideration. I have not noticed any disposition on the part of any member of the committee on either side to filibuster or to prevent the committee from reaching a vote.

There are a number of charges which have been made and which were heard before the subcommittee. The evidence has been before the full committee, and some of those charges have been carefully considered and discussed by the different members of the committee. I think it is entirely proper that the committee in an important matter of this kind should do that very thing, and do it carefully and consistently, for the purpose of ascertaining whether or not this appointment should be confirmed.

There was nothing in the proceedings of the committee at the last session that anybody could criticize. One of the members of the committee reviewed carefully the evidence bearing upon one of these charges, as he had a perfect right to do. He was a Democratic member of the committee, but what difference does it make whether he was a Democratic member or a Republican member in dealing with a question of this kind, involving the appointment of a man to the Supreme Court of the United States?

I resent the effort to make it a political issue at all. It ought not to be considered in any such way. I have the most kindly feeling for the Senator from Arizona, as I think he

knows. I have not felt any resentment about it; but I am sorry that the Senator should in his zeal have permitted himself to give out a statement of this kind. Of course, he had a right to think what he pleased. No man's thinking ought to be controlled by anybody else; but I think it was unfortunate that he should have expressed his thoughts—if they are expressed in the interview—of what was going on before his own committee. I think that is a very unfortunate situation, and I am sorry.

Mr. ASHURST. Mr. President, no rebuke that the distinguished Senator from California could administer to me could make me feel resentful, because I love him too much, and he is so often right that frequently I am inclined at times to agree with him; but this is not a political contest. It is not a contest between the Democratic Party and the Republican Party; it is a contest between that great inarticulate mass of people who, if war should be declared, would give their bodies to preserve this Republic—that is the issue on one hand—and the great, grasping corporations on the other, who want kept off the bench a man who will do all men justice. So long as that is the issue I shall refuse to allow my thoughts to be imprisoned, whether I entertain them at one place or another. I repeat that I hold no brief for Mr. Brandeis. So far as politics are concerned, he may have registered as a Republican, so far as I know, and I do not care whether he is a progressive Republican or a regular Republican or what not; the only thing that I measure him by is this: Is he honest and is he capable? I do not care anything about the political exigencies. It is your party and not mine that is reaching out its hands to get hold of somebody on the bench in your desperation for a candidate; it is not my party. I ask that there be printed in the RECORD the short clipping from the New York World to which I have referred.

Mr. BRANDEGEE. Mr. President, I should like to have it read.

Mr. ASHURST. Let it be read.

Mr. BRANDEGEE. Do I understand that the clipping to which the Senator has referred represents his present view?

Mr. ASHURST. Let it be read, and then I will state.

Mr. HUGHES. It is the interview that was in the New York World.

Mr. BRANDEGEE. I understood the Senator to say that it substantially represented his views——

Mr. ASHURST. Let it be read, and I will then answer that question.

Mr. BRANDEGEE. And therefore he asked to have it inserted in the RECORD. I should like to have it read.

The VICE PRESIDENT. The Secretary will read as requested.

The Secretary read the article.

Mr. OVERMAN and Mr. BRANDEGEE addressed the Chair.

The VICE PRESIDENT. The Senator from North Carolina.

Mr. BRANDEGEE. I wanted to make a comment in connection with the matter which has been read, if the Senator will allow me.

Mr. SMITH of Georgia. The Senator from North Carolina desires to speak, and he is ranking member of the Judiciary Committee at present.

Mr. BRANDEGEE. I only wanted to speak in connection with the matter concerning which I have spoken; but I am willing to wait until the Senator from North Carolina concludes.

Mr. OVERMAN. Mr. President, I am sorry the Senator from Arizona has not been more regular in his attendance upon the committee. If he had been, I think he would not have made these charges. He has been detained on other business of the Senate, as it has been his duty to attend the sessions of another committee having under consideration an appropriation bill. He has always been faithful in his attendance on the committee in so far as was possible, but during the course of the discussions in the Judiciary Committee he has been present very few times.

The truth of the matter is that two Democratic Senators, members of the committee, have been absent for some weeks; and the Senator from Arizona left word that he could be sent for at any time and would be ready to attend, but he was not present in the committee all the time when the discussions were going on.

Furthermore, I think, in justice, I should say that most of the discussion has been on the part of Democratic Senators. The Senator from Montana [Mr. WALSH], as has been stated in the clipping which has been read, did take nearly all the time at the last meeting at which the charge in connection with the Lennox case was under discussion. I have seen no disposition on the part of any Republican to delay a report on the nomination; in truth, I think I have heard several of them say they were ready to vote at any time, and I think that was the consensus of opinion of the Republicans on the committee.

Some Democrats wanted to go into this question and hear from the different members of the subcommittee in regard to three or four serious charges which have been made against Mr. Brandeis. The committee meets at half past 10 and the Senate meets at 12, when there is usually a roll call. It takes some time to examine into these charges. There are about 1,000 or more pages of testimony, and we have been going through the charges. We have now come to the Lennox matter, which took nearly all of yesterday, the time being occupied by the discussion of the Senator from Montana. After he concludes, there will be discussion on the other side. It is a matter that necessarily takes time, but I myself have never seen any disposition to delay.

Mr. SMITH of Georgia. Mr. President, I have attended each of the meetings of the Judiciary Committee when the nomination of Mr. Brandeis has been under consideration, and I do not think I have been out of the committee room five minutes when it was under consideration. With the Senator from North Carolina [Mr. OVERMAN], I regret that the Senator from Arizona [Mr. ASHURST] has been detained by his duties in connection with other committees and does not know the earnest consideration which the Judiciary Committee is giving to this nomination. He explained to us the urgency of other committee meetings that prevented his being present with the Judiciary Committee. I am sure if he had been present he would have appreciated fully what was really going on in the committee. He did not appreciate it, having been absent so much of the time.

Mr. ASHURST. That is the trouble with me. I do know what is going on in the committee.

Mr. SMITH of Georgia. Mr. President, I repeat that I regret the Senator did not know what was going on. He misunderstood what was going on, or he would not have made the statement which he has made.

Now, I state that there has been no filibustering by anybody in that committee. Most of the time has been taken up by the Democrats, and there never has been a time when Mr. Brandeis could have obtained a favorable report from those present at a committee meeting. He may yet obtain it. Most of the time the Republicans have been in the majority; only once or twice have we had a majority of Democrats present. The Senator from Missouri [Mr. REED] is detained at home sick. The Senator from Tennessee [Mr. SHIELDS] is detained by sickness in east Tennessee. I say frankly for myself that there never has been a time that I have been ready to vote for a report favorable to Mr. Brandeis. I have voted to postpone the consideration of the nomination because I have not reached a conclusion, and I wanted a further investigation and more information.

Mr. BRANDEGEE. Mr. President, the Senator from Arizona [Mr. ASHURST] has put into the RECORD an article from a newspaper which states that the Republican members of the Judiciary Committee are filibustering against taking a vote on the nomination of a justice of the Supreme Court of the United States, and he has given it out to the press of the country.

Mr. President, I have attended every meeting of that committee in which that nomination has been considered. There has been no time when the Republicans have made the slightest attempt to hinder coming to a vote. I myself the other day, when the debate seemed to languish, suggested that if nobody else cared to be heard, it was the duty of the Chair to order the roll to be called, whereupon some Senator commenced to discuss the case.

It does seem to me that the Senator from Arizona, having caused this article to be published all over the country, making a partisan charge, charging all the Republicans of the committee with an attempt to filibuster upon this nomination until after certain political conventions have been held, either ought to prove his charge or to withdraw it. I do not think myself that he ought to leave it in the RECORD, reasserting it by putting it in the RECORD, after he has heard the disclaimers of the Republican Members.

Mr. ASHURST. Mr. President, I think the Senator is right. I ought to withdraw it after the disclaimer, because whatever I may have thought then, or whatever I may think now—and I repeat, nobody can imprison my thoughts, or censor what I say—I think there is force in the Senator's statement that Senators having disclaimed it, having asserted that they are not filibustering, I ask to withdraw that statement.

Mr. SMITH of Georgia. That is fine.

Mr. ASHURST. I will ask to withdraw that statement upon their disclaimer, because while there has been some little heat manifested, although political ties sever us and this aisle

divides us, I know that you are all gentlemen. In view of the disclaimer, I ask leave to withdraw that statement.

Mr. OWEN. Mr. President, I just want to say a word for the RECORD, and that is that the nomination of Mr. Brandeis has been pending for about three months.

Mr. KERN. Three months to-day.

Mr. OWEN. And there apparently has been a concerted assault upon Mr. Brandeis, through various corporations of the country, who have falsely charged him with all kinds of things. He has been subjected to the most vicious and unjust assault ever brought against a nominee for a judgeship, and the fact that the members of the committee of the Republican persuasion appear to be unanimously disposed against him and to have approved these assaults and given the attacks such hospitable reception, even if not intentional encouragement, has probably caused this sentiment which led the Senator from Arizona to believe there was a Republican filibuster being unostentatiously engineered in committee. Certainly there has been a most ungenerous, unfair fight made against this man, who is distinguished by his learning and courage and his obvious desire to see justice done the common people by incorporated wealth. I am glad to see the Republican members of the Judiciary Committee now expressly deny any purpose of intentional delay and hope we may soon have a report.

RURAL CREDITS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2986) to provide capital for agricultural development, to create a standard form of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create Government depositaries and financial agents for the United States, and for other purposes.

Mr. LEWIS. Mr. President, unless some other Senator desires to address himself to this particular subject, I desire to say that it was in the midst of my paragraph, just as I was concluding an illuminating lucubration upon this subject of constitutional farm-loan credits, that these eminent antagonists introduced their acerbity, which I desire now to attempt to mollify, through concluding my paragraph with the softening influence of the law.

I ask the Senator from Utah [Mr. SUTHERLAND] if he will not observe the concluding paragraph of this opinion in Eighteenth Wallace in order that the Senator from New Hampshire [Mr. HOLLIS] and the Senator from Colorado [Mr. THOMAS] may observe that the effect of the Ninth Wallace opinion has been seriously qualified by these last observations.

In Eighteenth Wallace the court, on page 34, says:

> It is, however, insisted that the case of Thompson *v.* The Union Pacific Railroad Co. differs from the case we have now in hand in the fact that it was incorporated by the Territorial legislature and the Legislature of the State of Kansas, while these complainants were incorporated by Congress.

And so forth, and so forth.

Then says the court, concluding:

> It is therefore manifest—

Referring to all these rulings, and particularly the one the able Senator most appropriately introduced—

> It is therefore manifest that exemption of Federal agencies from State taxation is dependent not upon the nature of the agents, or upon the mode of their constitution, or upon the fact that they are agents, but upon the effect of the tax; that is, upon the question whether the tax does in truth deprive them of power to serve the Government as they were intended to serve it or does hinder the efficient exercise of their power. A tax upon their property has no such necessary effect. It leaves them free to discharge the duties they have undertaken to perform.

I merely read this paragraph to the able Senator to see if he concludes with me that the later rulings clearly indicate that the test of whether these exemptions are legal or not is not whether they appear in letter to conflict with some provision of the Federal Constitution, but what would be the effect of the operation, which is to be derived from the facts of the case, and arrived at by the method of the operation of the tax rather than by a mere comparison of the verbiage of the statute clause on the one hand and a constitutional clause on the other.

I thank the Senator for allowing me to take this time.

STEAMER "NORMANIA."

Mr. POMERENE. Mr. President, I have a private bill (S. 4760) to authorize the change of name of the steamer *Normania* to *William F. Stifel*, which was reported yesterday, and is now on the calendar. There seems to be some special reason why its passage should be desired, and I ask unanimous consent that it may be placed upon its passage.

The VICE PRESIDENT. Is there any objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

> *Be it enacted, etc.*, That the Commissioner of Navigation is hereby authorized and directed, upon application of the owner, the Ottawa Transit Co., of Mentor, Lake County, Ohio, to change the name of the steamer *Normania*, official No. 205017, to the *William F. Stifel*.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. HOLLIS. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 50 minutes p. m., Friday, April 28, 1916) the Senate adjourned until to-morrow, Saturday, April 29, 1916, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April 28, 1916.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, we find ourselves involved in a moral order the laws of which are as inexorable as the physical laws which environ us, and we realize the weaknesses, the foibles, and the infirmities of human nature. Impart unto us, therefore, we beseech Thee, strength to resist wrong, power to overcome the temptations which doth so easily beset us, that we may adjust ourselves to that order and thus prove ourselves worthy of the trust Thou hast reposed in us. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

SAFETY OF EMPLOYEES AND TRAVELERS ON RAILROADS.

Mr. DEWALT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table and consider at this time the bill (S. 3769) to amend section 3 of an act entitled "An act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907, and that a similar House bill (H. R. 9132) lie on the table.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to take from the Speaker's table the bill S. 3769, and consider the same at this time. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

> *Be it enacted, etc.*, That section 3 of an act entitled "An act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907, be, and the same is hereby, amended so as to read as follows:
>
> "SEC. 3. That any such common carrier, or any officer or agent thereof, requiring or permitting any employee to go, be, or remain on duty in violation of the second section hereof shall be liable to a penalty of not less than $100 nor more than $500 for each and every violation, to be recovered in a suit or suits to be brought by the United States district attorney in the district court of the United States having jurisdiction in the locality where such violations shall have been committed; and it shall be the duty of such district attorney to bring such suit upon satisfactory information being lodged with him; but no such suit shall be brought after the expiration of one year from the date of such violation; and it shall also be the duty of the Interstate Commerce Commission to lodge with the proper district attorney information of any such violations as may come to its knowledge. In all prosecutions under this act the common carrier shall be deemed to have knowledge of all acts of all its officers and agents: *Provided*, That the provisions of this act shall not apply in any case of casualty or unavoidable accident or the act of God; nor where the delay was the result of a cause not known to the carrier or its officer or agent in charge of such employee at the time said employee left a terminal and which could not have been foreseen: *Provided further*, That the provisions of this act shall not apply to the crews of wrecking or relief trains."
>
> SEC. 2. That nothing in this act shall affect, or be held to affect, any suit that may be instituted for recovery of penalty for violation of the act hereby amended occurring prior to the approval of this act, or any suit for such penalty or growing out of alleged violation of the act hereby amended which may be pending in any court at the time of the approval of this act.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

The SPEAKER. Without objection, a similar bill, H. R. 9132, on the House Calendar will lie on the table.

There was no objection.

On motion of Mr. DEWALT, a motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. RAKER, for the day, on account of sickness.

To Mr. PRICE, indefinitely, on account of important business.

To Mr. CONRY, for three days, on account of illness.